

November 1, 2005



**TRANSCRIPT**  
**November 1, 2005**

**MONTGOMERY COUNTY COUNCIL**

**PRESENT**

Thomas Perez, President	George Leventhal, Vice President
Phil Andrews	Michael Knapp
Howard Denis	Nancy Floreen
Marilyn J. Praisner	Steven A. Silverman
Michael Subin	



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1 Council President Perez,  
2 Okay, good morning. We have proclamation by Councilmember Leventhal on  
3 Steve Zepnick.

4  
5 Councilmember Leventhal,  
6 Thank you, Mr. President. As you know, the Health and Human Services  
7 Committee has frequently talked about the burnout factor and enormous  
8 workload among our social workers and especially in the Division of Child  
9 Welfare. I can't think of frontline staff who have a more difficult job. There are  
10 many who have difficult jobs in County Government and we appreciate all our  
11 employees but to assist children who have been abused and abandoned to enter  
12 into family situations that are emotionally very, very difficult to take, this is the  
13 kind of a job which really defines public service. And so we have -- so in the  
14 hope that we can do what little we can to send a message of support to all of our  
15 social workers and to the entire Child Welfare Services, led by Agnes Leshner  
16 who is here. When I heard that one of our social workers of all of the social  
17 workers in the entire state of Maryland had been recognized by the United States  
18 Department of Health and Human Services for the 2005 Commissioner's Award, I  
19 felt that the County Council ought to take a moment just to appreciate that  
20 profession, -- just take a moment to really stop and think about the amazing work  
21 that's being done by all sorts of County employees, but especially those social  
22 workers who try and assist families to obey the law, to get their lives back  
23 together, and unfortunately, in some cases, actually have to take children away  
24 from their parents and other family members who just can't handle the task, and  
25 exploit and abuse and sometimes abandon children. So this is one of the issues  
26 that makes service on the Health and Human Services committee so compelling  
27 and often, often emotionally -- often emotional. So, let me briefly just read this  
28 proclamation to Steve Zepnick, but really it is intended to send a message of  
29 support to all of our social workers in Child Welfare Services. "Whereas Steve  
30 Zepnick's professional wisdom and dedication have highlighted a distinguished  
31 career of 33 years with Montgomery County Child Welfare Services and whereas  
32 Steve Zepnick has demonstrated a strong personal commitment to ensuring the  
33 safety and well-being of children and to the supporting and strengthening our  
34 nation's families and whereas a strong advocate for families and children in the  
35 community, Steve Zepnick was recently honored by receiving the 2005  
36 Commissioner's Award from the United States Department of Health and Human  
37 Services given to those who have made outstanding contributions toward the  
38 prevention, intervention and treatment of child abuse and neglect and whereas  
39 because of Steve Zepnick and other professionals like him, many  
40 children will have the opportunity to grow up in a safe and nurturing environment  
41 and reach their full potential, therefore, it's resolved that the County Council  
42 proclaims commendations to Steven Zepnick, LCSWC, and thanks him for his



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1 dedicated service to the children of Montgomery County and putting the needs of  
2 our children first." Thank you, Steve, and congratulations.

3  
4 Steve Zepnick,  
5 Thank you.

6  
7 Councilmember Leventhal,  
8 Let's take a picture. Great, did you want to make a quick...

9  
10 Steve Zepnick,  
11 Quick statement?

12  
13 Councilmember Leventhal,  
14 ...quick statement -- yeah, go ahead.

15  
16 Steve Zepnick,  
17 In honoring of Martha Stewart when she was recently released, she said, she  
18 said that her experience was life-altering experience and life-confirming and I feel  
19 the same way. Thank you, very much.

20  
21 Councilmember Leventhal,  
22 Thank you for what you're doing every day.

23  
24 Council President Perez,  
25 I'm not sure what to make of that, Mr. Zepnick, but we'll chew on that tonight for a  
26 little while. Thank you -- thank you, Mr. Leventhal for that proclamation.

27  
28 Councilmember Leventhal,  
29 Ms. Lauer, Agenda and calendar changes.

30  
31 Linda Lauer,  
32 Two additional Zoning Text Amendments for introduction in the District Council  
33 session this morning. Zoning Text Amendment 05-18 Planning Board Public  
34 Hearing, Hearing Examiners sponsored by Councilmember Praisner, with the  
35 public hearing set for December 6th at 7:30, and introduction of Zoning Text  
36 Amendment 05-19 Site Plan Enforcement sponsored by the Council President at  
37 the request of the Executive, also hearing for December 6th at 7:30 -- that's it.

38  
39 Council President Perez,  
40 Thanks. Okay, Madam clerk, approval of minutes.

41  
42 Mary Anne Paradise,



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1 I have the minutes of October 18th, for approval and closed session minutes for  
2 October 18th for approval.

3  
4 Council President Perez,  
5 Okay, moved has been seconded -- all those in favor... Unanimous among those  
6 present, we have no petitions. Let's move to the Consent Calendar.

7  
8 Councilmember Floreen  
9 I ask to move the Consent Calendar

10  
11 Councilmember Leventhal,  
12 Seconded.

13  
14 Council President Perez,  
15 Moved and seconded. Ms. Praisner?

16  
17 Councilmember Praisner,  
18 Good morning.

19  
20 Council President Perez,  
21 Good morning.

22  
23 Councilmember Praisner,  
24 I, up until this moment am not sure what I'm going to do about the appointment of  
25 Mr. Dreyfus to the Housing Opportunities Commission. I've known Norman, for  
26 about 15 years without knowing that he and I both went to the same high school  
27 and the same college at the same time. And I've always known him to be fairly  
28 honorable person from the standpoint of what he said to me and how he  
29 approached issues. I do not think that developers are by their job description  
30 precluded from serving on the Housing Opportunities Commission. But I must  
31 say that I was troubled by Norm's answers to a couple of my questions during the  
32 interview process because they reflected or his responses to my questions  
33 reflected a less-than-satisfactory approach to the MPDU issue from the  
34 standpoint of where he himself personally could have monitored and tracked  
35 situations, especially as it relates to Leisure World. He was deeply involved with  
36 the possibility and the master plan for Aspen Hill to incorporate that property into  
37 Leisure World. He certainly knew, if he knew from the beginning that there were  
38 not going to be multi-family development but single-family homes on that  
39 property and IDI did not have that engagement, that activity as their primary type  
40 of construction. I would have thought that he would have spent a little more  
41 energy monitoring what was going on on that parcel. To the extent that he could  
42 have mediated and ensured that we don't have the situation we have now.  
43 Where houses have all been built and occupied for over a year at least and the



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1 MPDUs have not been built. Yes, he was not directly involved with that  
2 development but he could have used the significant influences which is part of  
3 the rationale why the executive sent his name over to support this  
4 implementation from that perspective. That said, I don't think Norman is less  
5 than a honorable person from the way in which he approaches these issues.  
6 And I've actually, as I've worked through the point, decided that I am going to  
7 support his appointment, but I'm going to be watching. And I'm going to be  
8 watching Norman every single day that he takes action and I'm going to see the  
9 recusals occur because of conflicts and I want to look at where the proactivity  
10 and the personal engagement occurs.

11  
12 Council President Perez,  
13 Ms. Floreen.

14  
15 Councilmember Floreen,  
16 Thank you, I just wanted to comment about Mr. Dreyfus, I think we're lucky,  
17 indeed, to have someone of his character and his background -- his, his hands-  
18 on knowledge to help guide HOC through the challenges of providing, continuing  
19 to provide affordable housing for the County. I will just note I thought in the  
20 interview, it was helpful for me to understand that some of the challenges  
21 associated with MPDU production, in fact, resulted from trying to workout  
22 solutions with the neighboring community. That always makes things hard, and  
23 makes things more tricky; but in the end, I think we all know that that ends up in a  
24 better project. So I think as a County it is hard to get great people -- well, it's not  
25 that hard. We are lucky to have great people available to support the county and  
26 its initiatives and I think we're lucky, indeed, to have Mr. Dreyfus be available to  
27 serve here. We will expect where recusals is warranted it will be undertaken, but  
28 I have every confidence that, that will be done in the appropriate circumstances.

29  
30 Council President Perez,  
31 Mr. Andrews.

32  
33 Councilmember Andrews,  
34 Thank you, Mr. President. I wanted to comment first on Item D, which is the  
35 confirmation of County Executive's Appointee for the Director of Libraries, Parker  
36 Hamilton. I believe that there's probably no more used service in Montgomery  
37 County than our public library system and it's a terrific system, it's one that is  
38 used by the great majority of the population in Montgomery County. I don't think  
39 there's a better measure of the community's health than the use of the library  
40 system and Parker Hamilton, with her background in library system, I think, is  
41 well-positioned to move our library system forward as it needs to go. I think there  
42 does need to be a lot of attention to some of the operating aspects of the library  
43 system, particularly the replenishing of books and other materials that are critical



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1 certainly to the long-term success of the system and people do notice after  
2 budgets go down for a while. So I hope that she'll pay special attention to that,  
3 and also work to bring in and accommodate all the people in the in Montgomery  
4 County who have special needs. And who need access to a library system. The  
5 new Special Needs Library will be located at the new Rockville Library which I  
6 think will be a good location because of how central it is. I look forward to that  
7 new library. So, I want to congratulate her on what I think will be a vote in just a  
8 couple minutes to confirm her as the new Director of the new library system and I  
9 know that Councilmember Leventhal will enjoy working her as Chair of the Health  
10 and Human Services Committee. And I also want to comment on Item C. I think  
11 this is a close call and I'm going to give Mr. Dreyfus the benefit of some doubts  
12 that I have. I think some important issues have been raised about potential  
13 conflicts, and I was glad to hear at his interview that he committed to have his  
14 company not engage in any condominium conversions in Montgomery County at  
15 least while he would be a member of the Housing Opportunities Commission. I  
16 think it's very important for him to be alert to any other potential conflicts in his  
17 capacity as a member of the Commission which is a very important Commission,  
18 which is critical to the future of affordable housing in Montgomery County. So  
19 with some reservations but with hope I will support his nomination.

20  
21 Council President Perez,

22 Okay, we're concluding the Consent Calendar and all those in favor -- unanimous  
23 among those present. Moving along to the State Transportation Project Priority  
24 List, let me turn to Councilmember Floreen.

25  
26 Councilmember Floreen,

27 Thank you, Mr. President. We have in front of you the changes to last year's  
28 Transportation Priority List. Basically, it is essentially the same. We did tweak it  
29 a tad but I wanted to say that the main point here for us all to remember, and as  
30 we go into the Legislative session this year, to be particularly attentive to this.  
31 Montgomery County needs a significant increase in state funding of state  
32 projects. The proposed -- if  
33 you recall, Glenn conveniently put together a list for last week's road show, and  
34 what his memo points out that the proposed funding for the state's Transportation  
35 Trust Fund for the next fiscal-year period from '06 to '11 is \$8.5 billion which is  
36 \$664 million, or 7.1% less than in the last year's Consolidated Transportation  
37 Program. And \$814 million, or 8.6% less than it was five years ago. Factoring in  
38 for inflation, the proposed funding is about 10% less than last year's program and  
39 20% than five years ago. In terms of construction cost, inflation factors, the  
40 proposed program is even smaller. Modest revenue increases approved by the  
41 General Assembly in '04, only temporarily interrupted the decline of funding in the  
42 Transportation Trust Fund for capital programs. Statewide, there are only four  
43 new projects proposed for the construction program, none of which is in



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1 Montgomery County and only nine new planning or design studies proposed for  
2 the development and evaluation program. Again, none in Montgomery County.  
3 At the road show last week, Secretary of Transportation Flanagan indicated that  
4 because of extraordinarily high gas prices people are driving less. A good thing  
5 for traffic issues but not for transportation levels. As a result, he indicated that  
6 the state's revenues from the gas tax are below projections, which is not good for  
7 the transportation budget. The state really got to address this fact and find the  
8 resources to fund an adequate transportation budget this year and I think we  
9 need to pull together with our delegation to make sure that Montgomery County  
10 gets what it needs to get here. Glenn has put together a nice comprehensive list  
11 of the changes in the request. It is, as I said earlier, it is essentially the same as  
12 last year's with a few tweaks. Really, what we did was to focus on the most  
13 important projects, and so a couple projects were broken up into two parts so  
14 that we would move forward the most important parts of those projects and allow  
15 some of other very necessary projects to go forward. If you look on page 2 of  
16 Glenn's memo of this item. Primarily -- well, we're doing this again. Requesting  
17 the acceleration of funding for the Montrose Parkway, Rockville Pike Interchange  
18 by two years. This is fastest the project can be accelerated from a production  
19 standpoint. With specifying what we need for the Silver Screen Transit  
20 Center is \$5.26 million. This is needed to match the amounts recently authorized  
21 by the Federal Government. We are deleting the request for funds for North  
22 County Bus Depot at this time given the status of this. It's too early to be  
23 requesting additional dollars. We're pushing up the I-270 Watkins Mill  
24 Interchange on the list. The urgency has increased due to development activity  
25 and coordination with Watkins Mill Road  
26 Extended, which is a county road and facility planning and we expect it to be part  
27 of the Corridor Cities Transitway. We propose splitting the Woodfield Widening  
28 Project into two segments and retaining the widening between Midcounty  
29 Highway and Snouffer School Road as a high-priority. We think that will be  
30 necessary to support whatever happens on the Webb Track. And it will be  
31 consistent with improvements in Snouffer School Road. We've raised -- in  
32 response for community requests, we've raised the priority position of the  
33 Brookfield Bypass. It's not at the top of the list as everyone -- as many people  
34 would like, but it's a little closer. We split the Maryland 28-198 Widening  
35 into further segments in the construction list so we move up the most important  
36 part which we found is the widening from Georgia Avenue to Layhill Road and  
37 that's the highest volume section. Next, we delete the Rockville Pike Jones  
38 Bridge Road Intersection from the project planning priority list. The state has  
39 programmed preliminary engineering funds for this though it's not going to  
40 proceed until it finishes evaluating the options for the Bicounty Transit Way  
41 choices there. We move up the Rockville's request for an interchange at 355 and  
42 Gude Drive. It really reflects the importance of this in serving the congested  
43 areas in this part of the County and around Shady Grove. Then we accelerate



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1 the -- the -- one of the ramps from Great Seneca Highway to Sam Eig Highway  
2 on project planning. Again there's a tremendous continuing traffic growth in  
3 access of I-270 in that area of Gaithersburg in particular. Accelerate the  
4 widening of Maryland 355 in Germantown, clearly in response to Clarksburg and  
5 dropping the priority of widening for Viers Mill Road given the other needs. And  
6 then finally, we add the I-270 and Gude Drive Interchange and then the Maryland  
7 108 Bypass to project planning. These were requests from Rockville and the  
8 town of Laytonsville. So that's the list.

9  
10 Council President Perez,  
11 Okay, Ms. Praisner was first, then Mr. Silverman.

12  
13 Councilmember Praisner,  
14 Well, not much is going to happen because there isn't very much money so we  
15 can sit here and play games with rearranging the deck chairs on the Titanic, but  
16 that's basically what we're doing. And we can also say that the reason why is  
17 there there's not enough state money but from the dialogue and from what  
18 happened in Annapolis when the  
19 Legislature weighed in into the source of funding for the ICC, it's also true that as  
20 far as the state's concerned our money's going to the Inner County Connector  
21 and to ignore that is to be unrealistic as to what actually is happening. And it was  
22 the State Legislature's decisions and actions by virtue of their rejecting the way  
23 the Governor had planned to be funds the ICC and use other alternatives  
24 because of fear of Federal  
25 Money not being used for -- not being available that led to the reprogramming of  
26 the way funding will occur for transportation, modest though the funding is. So  
27 we can spend a lot of time today arguing about or ignoring the reality of the ICC  
28 or arguing about whether four should be third or seventh should be eighth or  
29 whatever. The reality is much isn't gonna happen on this area. But as I -- and as  
30 I indicated to the members of the T&E committee, I was not happy to see  
31 projects slipping from a standpoint of other projects being put above them. I find  
32 it interesting that's what's happening is that we're trying to catch up even with our  
33 state projects on growth that we've already approved. That's the Clarksburg  
34 rationale and it's the rationale for some of the other activity we're going to  
35 accelerate an interchange at 270 and Watkins Mill because of the development  
36 activity there as well. So instead of saying, approaching and addressing the  
37 development issue which is part of our conversation with the AGP, or, you know,  
38 facing the facts as to where our money really is going, we're going to put forward  
39 a list which we do every year and which we have to, but the reality is not much is  
40 going to happen on it. I'm very disappointed to see the Viers Mill Widening study  
41 taken off that because of priorities elsewhere. And saying that bus rapid transit is  
42 still there and so we should focus, you know, you got one project so don't worry  
43 about it is troubling to me. I also think that while we should focus on what the





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1 municipality may write us as letters, the reality is that there are lots of  
2 communities' members who don't have that venue or vehicle to come forward  
3 with concerns that they have. We're looking at the facility planning because -- for  
4 the Watkins Mill Road again which jumps from nine to third because of  
5 development and because the Watkins Mill Road Extended is going into facility  
6 planning. But we're dropping at the same time, the part of 198 between Old  
7 Columbia Pike and 29, when we've already slowed down facility planning which  
8 is  
9 done for the Burtonsville Loop Road in order to coordinate those two projects.  
10 So, I guess what the County giveth the County taketh away. I'm going to abstain  
11 on voting on this because I think it's a farce.

12  
13 Council President Perez,  
14 Mr. Silverman

15  
16 Councilmember Silverman,  
17 Well, I'll agree with the -- my first paragraph with my colleague's comments about  
18 what's going on, down in Annapolis but I actually think -- appreciate the work of  
19 the T&E Committee in creating a balance. We have tremendous transportation  
20 needs, countywide as a result of development that is already in place. And the  
21 new list that has  
22 been constructed by the T&E Committee I think represents a balance of  
23 countywide interests. They're extraordinary -- in fact, I'm looking at the list on  
24 circle 11, and I think that of the first six items on the list, four of them are what I  
25 would respectfully call in the eastern portion of the county so I think there's  
26 certainly a balance that's been created. But the bigger issue is exactly what Ms.  
27 Praisner said which is we can have a wonderful list here. We don't have money.  
28 I don't see attached here, Glenn, what I think you circulated around, which is  
29 the...

30  
31 Councilmember Praisner,  
32 The other memo.

33  
34 Councilmember Silverman,  
35 ...the other memo which if I remember correctly shows that not only -- there are  
36 less dollars in the next six years than there were five years ago in terms of --  
37 we're not talking about adjusted for inflation. We're not talking about adjusted for  
38 the exploding cost of construction. We're talking about real dollars differential.  
39 And what would I respectfully say is that I know we've conveyed this to our  
40 delegation just the same way I think we were successful as part of a statewide  
41 coalition on school construction last year, I always like to remain optimistic until  
42 proven otherwise, that the issue here is not that I naively think that somehow if  
43 the pie is bigger it's all going to flow to Montgomery County but the first step is



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1 increasing the transportation pie at the state level just like increasing the school  
2 construction pie was how we ended up with much higher dollars for Montgomery  
3 County last year. And I hope that trend will continue. But the surplus numbers  
4 that are out there now are approaching \$2 billion. And I think we need to make  
5 sure that we are continuing to not only press our own delegates and senators on  
6 this issue which I know they will carry the banner forward but we are conveying  
7 to our colleagues around the state how important transportation funding is. The  
8 bottom line is if the pie remains as small as it is we'll continue to be fighting with  
9 other jurisdictions for the crumbs that remain. The only way that we're going to  
10 get any of these projects off of this list if at the same time other projects come off  
11 other lists that are being compiled in other jurisdictions throughout this state. So  
12 I think we need to continue our sort of call to action for additional state dollars  
13 and the Transportation Trust Fund and continue to call on the Governor to meet  
14 a commitment statewide to transportation that he has not in my opinion, met.  
15 Those of us who support the ICC are grateful for his strong support for that  
16 project, but there are a lot more projects on this list that affect day to day lives in  
17 Montgomery County and other lists around the state that have to be addressed.  
18 So I hope we're going to not only just put this on the list, but, in fact, try to  
19 continue to press the issue and suggest that this is a perfect opportunity to put  
20 some one-time moneys out of the surplus that the state has into transportation  
21 funding, and in terms of our list, the first item that we've got on our list is the  
22 Glenmont Metro Garage which is designed to address increasing our transit  
23 usage for that area. So I hope we'll be able to continue to move forward, but I  
24 hope we can continue to hold the state accountable for increasing the  
25 Transportation Trust Fund so that we will have a better shot at some of  
26 these projects coming off the list. Thank you.

27  
28 Councilmember Floreen,

29 Yeah, if I can -- if anyone else has a light on -- but I think it's absolutely critical to  
30 appreciate that really our list has a balance also for transit support as well as  
31 road improvements. And the bottom line is that we have to continue to fight for  
32 these. With the Highway Mobility Report that's been provided to us through an  
33 AGP, a large percentage of the problem with intersections are state roads and  
34 we really need to get that on everyone's radar screen. Glenn, I think you gave all  
35 the members of the delegation a copy of your memo about Montgomery County's  
36 situation and analysis of the decline in funding. I think it's incumbent upon all of  
37 us to work closely with the delegation this year to help them fight for Montgomery  
38 County and Annapolis and I wanted to thank Glenn for the work he's done to date  
39 for getting that work to the delegation and getting them onboard. With this list I  
40 think this year we'll be better positioned perhaps to get some of these projects  
41 actually moved up. So I think it's a balanced list. It's always a challenge. It is  
42 certainly true that the ICC is going to happen and that may be counted in the  
43 great balance sheet of life. But the fact of the matter is, it's long overdue and



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1 these initiatives are equal equally warrant -- important in terms of the state  
2 funding and attention. So, that's the list.

3  
4 Council President Perez,  
5 Mr. Andrews.

6  
7 Councilmember Andrews,  
8 Thank you. Well, I do think the list contains many important projects, many  
9 needed projects and one project that I'm glad to see moved up in the project  
10 planning priority list is the Maryland 355, Gude Drive intersection which  
11 according to the Shady Grove Sector Plan Supplemental Technical Information  
12 report that Glenn Orlin noted in response to the question I had. The current  
13 standards show that that intersection Maryland 355 and Gude Drive is 27% over  
14 the applicable congestion standard and is estimated by 2025 to be 55% over.  
15 The problem is that even if all these things go forward, given the current state of  
16 funding at the state level, and if the ICC goes forward, then it is extremely  
17 unlikely according to Dr. Orlin, that we'll see any funding for the Maryland 355,  
18 Gude intersection within 15 years, and it'll probably be more likely 20 he said.  
19 And that is a very long time to have people sitting in traffic on 355 next to Shady  
20 Grove and up and down Rockville Pike. So while this list contains many critical  
21 projects support, the problem is we have a \$3 billion elephant in the room that's  
22 consuming the money and that is the ICC which it has to be pointed out would  
23 also cost users for a long time as well. In fact in perpetuity, because it's  
24 proposed to be a toll road because it's so expensive that would cost \$1,500 a  
25 year to use from end-to-end during rush hour, \$6 a day which I think the public is  
26 quite unaware of -- which I think is an important fact to highlight. Now the ICC is  
27 not a done deal and hopefully the road will be rejected so that we can go forward  
28 with some of these other projects because political fact is because the ICC is so  
29 expensive, if it is built, there will be tremendous pressure in Annapolis not to fund  
30 other projects in Montgomery County because of the argument -- the argument  
31 will be that Montgomery County -- "Montgomery County got the ICC; now, it's our  
32 turn." What we really need are these projects on this list that really do relieve  
33 congestion without inducing nearly as much development as the ICC would. The  
34 ICC would induce 10 million square feet of additional development just at the  
35 Route 29 corridor and that's not -- that's with no change in zoning. That's with  
36 current zoning. That's because of the value to developers that the ICC adds at  
37 interchanges. And that certainly is not going to relieve traffic when you add 10  
38 million square feet of development. The state's own study found that the Inter  
39 County Connector would add traffic to the Beltway in Montgomery County. Now,  
40 the last thing we should do in trying to solve one problem -- east-west  
41 congestion, is make our most congested road -- the Beltway, worse. That's what  
42 the ICC would do according to the state's own study and I'll be happy to provide  
43 the documents for that. But it's on page 316 and 317 for the draft Environmental



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1 Impact Statement. So this is a good list. Lots of needed projects. But in many  
2 ways it's an academic list because we've got \$850 million worth of projects  
3 waiting for construction funding, and we are we've got a number of other here  
4 that we are working to get on the planning list, which is not the construction list.  
5 And so, so many are down the list, that yes, we should do everything possible to  
6 push them forward but there simply is not going to be the money to fund any of  
7 them for a long, long time because of the current decision by the State  
8 Legislature and the Governor to fund the ICC.

9  
10 Council President Perez,  
11 Okay, Mr. Knapp?

12  
13 Councilmember Knapp,  
14 Thank you, Mr. President. Mr. -- Dr. Orlin, how long...

15  
16 Glenn Orlin,  
17 I answer to either one.

18  
19 Councilmember Knapp,  
20 Pardon?

21  
22 Glenn Orlin,  
23 I answer to either one -- either one is fine.

24  
25 Councilmember Knapp,  
26 Be careful, because you might need it too. How long has the oldest project been  
27 on this list?

28  
29 Glenn Orlin,  
30 The oldest project?

31  
32 Councilmember Praisner,  
33 That would be the ICC.

34  
35 Glenn Orlin,  
36 All right.

37  
38 Councilmember Knapp,  
39 With the exception of the ICC.

40  
41 Glenn Orlin,  
42 Circle 11, probably the oldest project is the Brookeville Bypass...



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1 Councilmember Knapp,  
2 Okay, which is 35 years?

3  
4 Glenn Orlin,  
5 I don't know how long it's been in planning, Mr. Knapp, it's been around for a  
6 long, long time. It's been in the master plan for at least 30 years.

7  
8 Councilmember Knapp,  
9 What is the Transportation Trust Funds done at the state level for the last 10  
10 years?

11  
12 Glenn Orlin,  
13 Transportation Trust Fund, except for last 2004, when there was a blip up with  
14 the what I would characterize as a very modest revenue increase, Transportation  
15 Trust Fund generally has been declining. There was also a bump when MC-10  
16 was first passed -- I'm sorry, 221, because of confusion of Federal Aid. There  
17 really hasn't been a meaningful if you will, state increase since 1992.

18  
19 Councilmember Knapp,  
20 Okay, I guess I would just respectfully submit to my colleague, and I appreciate  
21 his thoughts on the ICC, but it doesn't make a difference what your transportation  
22 priority is, we haven't funded them in the last 30 years; so to blame is on the ICC,  
23 I think is somewhat shortsighted. We should make amends to all transportation  
24 projects, transit, roads, whatever because we're way behind on behind on just  
25 about all of them. So we should be able to put as much money as we can to  
26 everything. So, since we haven't funded most of these in a long time and our  
27 Transportation Trust Funds continues to go down I don't think that necessarily  
28 points to the ICC being a bad project. I just says we're not committed to doing as  
29 much transportation as we should. Nevertheless, I appreciate that the changes  
30 that the committee has made in particularly the movement of the Brookville  
31 Bypass because I know that has been on the list for a long time and I just  
32 appreciate consideration and we've got to do a lot more.

33  
34 Glenn Orlin,  
35 I have just add one more thing. The construction backlog, if you will, in  
36 Montgomery County is just not \$820 million on top of page 11 but we've sort of  
37 summarized the huge projects which are in Montgomery County which  
38 essentially the Council really doesn't have any control over the progress they're  
39 going to happen at whatever pace they go, namely the Bicounty Transitway -- the  
40 Corridor City Transitway, the widening of 270 and the widening of the widening of  
41 a portion of the Beltway. Those four projects alone well exceed \$3 billion. So if  
42 you're looking at the entire list, you're probably talking of well in excess of \$4  
43 billion.



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1  
2 Councilmember Floreen,  
3 Time to get started then -- okay.

4  
5 Council President Perez,  
6 Okay, I think all we need to do is...

7  
8 Councilmember Knapp,  
9 Raise our hands.

10  
11 Council President Perez,  
12 ...raise our hands. Okay, all those in favor... And Ms. Praisner abstained, so that  
13 should be noted in the record. Moving to District Council Session, agenda Item  
14 4, Zoning Text Amendment 517 Site Plan Enforcement sponsored by  
15 Councilmembers Floreen, Denis, and Knapp. Mr. Denis.

16  
17 Councilmember Denis,  
18 Thank you, Mr. President. I'd like to direct my comments to this item and to Item  
19 5 and to Item 6, and I also want to thank my seatmate, Ms. Floreen and my  
20 fellow bookend, Mr. Knapp for sponsoring this Legislation with me and to the  
21 County Executive for his advocacy. I especially want to thank those residents  
22 whose tireless efforts have brought unpleasant facts to life. I've introduced ZTA  
23 05-17 and the companion bill and the companion regulations to transfer site plan  
24 enforcement responsibility from Park and Planning to the Department of  
25 Permitting Services -- I do so to put a Legislative option on the table as the  
26 Council reviews the findings of the Office of Legislative Oversight's forthcoming  
27 report on the planning process. By introducing this Legislation today, we can  
28 have a public hearing on the site plan process set now for December 6th. I have  
29 lost faith in Park and Planning to conduct site plan enforcement. The news of yet  
30 another development out of compliance with an approved site plan this time in  
31 Bethesda is very disappointing. That was the last straw for me. By process of  
32 elimination, the Department of Permitting Services is the most logical place for  
33 site plan enforcement. Placing site plan enforcement and permitting services will  
34 give the County Council and the people of Montgomery County more direct  
35 oversight over this important function. Currently this important function answers  
36 to a director who answers to another director who answers to the Park and  
37 Planning Board which is a separate entity. Under our proposal, the Appointed  
38 Director of Permitting Services would have responsibility for site plan  
39 enforcement and other building enforcement functions. Transferring site plan  
40 enforcement to Park and Planning over a decade ago has proven to have been a  
41 mistake. And it also appears amazingly to actually have been overlooked. This  
42 Legislation will also require the personal signature of the Chairman of Park and  
43 Planning on site plan documents. We need a Sarbanes-Oxley Form of



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1 Accountability as called for in the Legislation which was sponsored and which  
2 came to a vote several months ago. This bill before us will place personal  
3 responsibility on the accuracy of site plan documents with the Chairman of the  
4 Planning Board. And the Legislation adds a new use and occupancy  
5 requirement for single-family attached homes. This will provide protection and  
6 piece of mind to buyers of homes who currently go to settlement without  
7 important permits completed. I look forward to hearing the findings of the Office  
8 of Legislative Oversight's report in open session next week. I also look forward  
9 to receiving testimony and documentary evidence from the general public on the  
10 Legislative option we are putting on the table today.

11  
12 Council President Perez,  
13 Ms. Floreen.

14  
15 Councilmember Floreen,  
16 Thank you, Mr. President. I wanted to say to my seatmate Mr. Denis, it seemed  
17 like a good thing at the time to give Park and Planning enforcement authority. It  
18 turns out it didn't workout, the way folks had hoped. I'm pleased to be a co-  
19 sponsor, ZTA 05-17, Subdivision Regulation 504 and Site Plan Enforcement on  
20 Bill 35-05 and another ZTA-519, that's the one submitted by the County  
21 Executive and I appreciate the fact that we've got this package on the agenda at  
22 this point. I think while the jury's still out on what's happened in Clarksburg, what  
23 we do know is that we don't know a lot of things. It does not appear that  
24 inspections have been occurring as we had assumed and I think we're going to  
25 have to give some thought, frankly, as to the good citizens of this County, both  
26 through the Civic Federation and through the Clarksburg communities who've  
27 done a lot of the grunt work on their own. It should have been -- those are  
28 responsibilities that should have been undertaken by the County in my book. I  
29 think it's great for us to have these visions and these plans and these grand site  
30 plans, actually, making sure it happens is a whole other kettle of fish and that's a  
31 something we're going to have to sort out over the next few months. But I do  
32 think that this proposal will really add some reliability and accountability to the  
33 process. I think it'll force better communication between different agencies and  
34 require some good clarity and decision-making and requirements done at Park  
35 and Planning that another party, the Department of Permitting Service and the  
36 public can come to rely upon. Apparently, a lot of changes have been classically  
37 permitted in the field without approved documentation. This ought to put an end  
38 to that and I think it ought to -- this system will add some real credibility and  
39 reliability to the system. I think what we'll know from now on is if this passes is  
40 who's in charge of enforcement, who's going to be reviewing the final documents,  
41 and who's going to be finally accountable for how their units are put on the  
42 ground. Right now, responsibility for this is divided. This will put it in one place;



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1 so I look forward to the public hearing on this. I think this will go a long way  
2 towards clearing up some of the confusion that's been out there.

3  
4 Council President Perez,  
5 Mr. Knapp.

6  
7 Councilmember Knapp,  
8 Thank you, Mr. President. I also am pleased with the co-sponsor of this  
9 Legislation and appreciate Mr. Denis' and Ms. Floreen's efforts in this. And I  
10 agree with the remarks that each have made. The one thing I would just kind of  
11 caution us all to recognize is what Ms. Floreen said, that what we know now is  
12 we don't know a lot and I believe that this is a first step in a lot of things that  
13 probably need to occur that we'll find from the OLO Report and from other things  
14 that are not necessarily indicative of only Clarksburg but of some processes that  
15 need to get revised and improved upon. And so, I just kind of want to put that out  
16 there. I think this is a good step forward -- an important piece of Legislation, but I  
17 think it is a piece of many things that we need to be looking at. And so I just want  
18 -- I just think it's important for us to recognize that and I apologize for being late  
19 this morning. I was at a meeting with many of the Clarksburg community folks,  
20 and this actually had come up and they've come up with a variety of issues that,  
21 in fact, this Legislation while important would not necessarily immediately rectify  
22 because it happens well in advance and so I just wanted to make sure that this is  
23 -- we recognize this is a good first step on one piece but we've got a lot more  
24 things to do.

25  
26 Council President Perez,  
27 Okay. Let's turn to -- we have resolution for our public hearing to establish,  
28 public hearing December 6th at 7:30 P.M. All those in favor. Unanimous among  
29 those present. Did we do 4 and 5, let's assume we did 4 and 5 together. For  
30 purposes of this discussion, without objection, we will do that. We have 5.1  
31 which is Zoning Text Amendment, 518, Planning Board Hearings, Hearing  
32 Examiner sponsored by Councilmember Praisner. We have a -- do we have a  
33 resolution for a hearing on that as well for the same...

34  
35 Councilmember Denis,  
36 Yes, we do.

37  
38 Council President Perez,  
39 ...same, same bat time, same bat channel.

40  
41 Councilmember Praisner,  
42 I'll second that.





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1 Council President Perez,  
2 Okay, you'll second that -- all those in favor... And then Zoning Text Amendment  
3 5-19 was the County Executive's proposal on this and again we'll have that  
4 hearing at 7:30 without objection. Let's move to Legislative session, Madame  
5 Clerk, any journals for approval?

6  
7 Mary Anne Paradise,  
8 We have the Journal of October 18th for approval.

9  
10 Councilmember Knapp,  
11 Second.

12  
13 Council President Perez,  
14 Moved and seconded all those in favors...unanimous among those present.  
15 Agenda Item 6; 35-05, Permitting services, site plan enforcement. This is same  
16 thing before that we -- not same thing but first cousin of what we were doing  
17 there. It could even be a twin. We could have that debate, but we'll put that off.  
18 So that hearing is set for the same time, December 6th at 7:30. Agenda 7,  
19 Transportation Management's District Fees sponsored by Councilmembers  
20 Praisner, Silverman, Subin, and Floreen-- public hearing December 6th at 1:30.  
21 Councilmember Praisner.

22  
23 Councilmember Praisner,  
24 Yes, I just wanted to explain what the Legislation does is allow the County  
25 Council by resolution to set the amount of the Transportation Management Fee  
26 which would be in keeping with the transportation management process that we  
27 have in place now. But unfortunately we have the structure but not the potatoes  
28 that go or the meat that goes with the potatoes at this point because there have  
29 been no or are no fees being charged. And the issue of trying to put together  
30 TMDs in a variety of areas and having revenue in order to implement that has  
31 been a challenge. In the process of looking at the Legislation, Mr. Orlin, eagle-  
32 eye Orlin, I call him these days, noted that in the Legislation right now there is a  
33 cap of \$0.10 cents per square foot based on gross foot floor area for the TMD  
34 fee, should one be imposed. And I agree with his perspective that to have that in  
35 Legislation when it was said I guess over 10 years ago does not allow for any  
36 kind of modification except by Legislation and that seems not to be the best way  
37 to go -- to approach that. So we've removed that piece from the Legislation in  
38 order to allow flexibility and also to allow that to also be done by resolution. I  
39 want to thank my colleagues for agreeing to co-sponsor.

40  
41 Council President Perez,  
42 Mr. Andrews?



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1 Councilmember Andrews,

2 Thank you. I would like to be added is a co-sponsor of the bill.

3

4 Council President Perez,

5 Okay. Okay, let's turn to Agenda Item 9, the Council Grant's process. We as  
6 always omit the unlucky number 8 and go from 7 to 9.

7

8 Councilmember Praisner,

9 Oh, excuse me on that one issue, Mr. Perez, when we advertise for that, can we  
10 also advertise for the TMD Fee bill that we might change the effective date and  
11 might want to make it an emergency bill -- what's the term, I can't think...

12

13 Council President Perez,

14 Expedited.

15

16 Councilmember Praisner,

17 Expedited bill? I'd want to look at that, too.

18

19 Council President Perez,

20 Okay, let me turn to Councilmember Leventhal.

21

22 Councilmember Leventhal,

23 Right, thank you, Mr. President. The HHS and MFP Committees had two joint  
24 meetings. I want to very much thank my colleague Chairwoman Praisner of the  
25 MFP Committee, who has been working with me and with other colleagues for a  
26 year-and-a-half now to try and provide a process by which community  
27 organizations can seek support from the County Council in which all community  
28 organizations are on an equal footing in which it is clearly advertised to the public  
29 with posting on the internet with clear deadlines for submitting applications and  
30 an orderly process by which a Grant's Review Panel may provide input to the  
31 Council on the strength of the applications. I want to thank all my colleagues  
32 who participated in the conversations leading up to the proposal to the Council of  
33 the resolution which begins on circle one of the memo which accompanies --  
34 which is for Agenda Item 9. I was very, very pleased that all members of the  
35 HHS and MFP Committees voted to recommend this resolution to the full  
36 Council. I know there's a range of opinions among Councilmembers about really  
37 whether there's need for this process but it certainly is my goal to make it simple  
38 as possible, not a cumbersome process, to give organizations clarity about how  
39 they may apply for funding in next year's budget. I believe this resolution does  
40 that. I think it speaks for itself. I don't want to take the Council's time to go  
41 through every detail although I'd be very happy to respond to questions. I really  
42 want to thank Linda McMillan, who is a excellent writer. Linda writes -- you write  
43 so clearly, and I really appreciate that. You really bring information to us in a way



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1 that we can absorb and follow the reasoning and that's a very, very important  
2 skill, particularly when we have so much reading to do. Good prose is really,  
3 really welcome and I want to thank you. And also for the clarity that you brought  
4 to some of these questions. You helped guide the two committees through  
5 differences of opinion amongst us and I think we found a consensus and I  
6 appreciate your work very, very much. So, I recommend on behalf of the HSS  
7 and the MFP Committees -- I don't know if Chairwoman Praisner wants to make  
8 any comments, but we recommend the resolution on circle pages 1, 2 and 3 to  
9 the full County Council.

10  
11 Council President Perez,  
12 Ms. Floreen

13  
14 Councilmember Floreen,  
15 Thank you, I had a question. I didn't know if Ms. Praisner was going to come in.  
16 No, okay. Okay, I had a question.

17  
18 Councilmember Praisner,  
19 We are facilitating action today.

20  
21 Councilmember Leventhal,  
22 We should spends 45 minutes on...

23  
24 Council President Perez,  
25 We're going to -- we're going to go through it; we don't have enough time. I'm  
26 going to ask Ms. McMillan.

27  
28 Councilmember Leventhal,  
29 Lie, lie, lie.

30  
31 Council President Perez,  
32 Marks out a few of the words -- debate whether we could have used different  
33 words.

34  
35 Councilmember Floreen,  
36 Okay, let the record reflect you can subtract those comments. I want to  
37 understand the recommendation is to establish -- well, it sort of is to establish a  
38 sense of priorities here. And I wonder if the committee, committees could talk  
39 about that? Placing a special importance on funding proposals for nonprofit  
40 partners that address needs in their community who are at least able assist  
41 themselves. No one can argue with that -- that's number four. However...

42  
43 Councilmember Leventhal,



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1 No, it's not.

2

3 Councilmember Floreen,  
4 Well...

5

6 Councilmember Leventhal,  
7 [INAUDIBLE]

8

9 Councilmember Floreen,  
10 What do we do with the arts? What do we do with the educational programs?

11

12 Council President Perez,  
13 Yeah.

14

15 Councilmember Floreen,  
16 What do we do -- if you look at the list of groups that were funded previously,  
17 those were not necessarily criteria, and I wanted to understand what  
18 conversation the committees may have had about this particular issue. One of  
19 the challenges of all this is that there are no criteria. That's good for us, hard for  
20 the nonprofits, unclear situation all around which I guess we're committed to  
21 continuing which I'm actually don't disagree with. But when we put this language  
22 in here we're saying something very different it seems to me and I think it would  
23 be helpful to be clearer about what we mean. So perhaps someone could  
24 address that.

25

26 Councilmember Leventhal,  
27 Great, I'd be happy to speak to it and others might be as well. First of all  
28 regarding the arts, if you look at circle 3, paragraph 7.

29

30 Councilmember Floreen,  
31 Yeah.

32

33 Councilmember Leventhal,  
34 We're not encouraging arts organizations to apply for funds other than through  
35 the Arts and Humanities Council. Now my hope is that we will get to a place  
36 where everyone including the arts community has confidence in the Arts and  
37 Humanities Council and their existing process is the process that is used for  
38 getting grants. That's what I would encourage, and I know other colleagues  
39 agree with me but others may not. But last year we had some applications for  
40 arts organizations and we had a lack of clarity in the fiscal '06 process as to how  
41 those should be treated so paragraph 7 on circle 3, provides what I hope is clarity  
42 that if after -- if in the course of our consideration of FY'07 budget an arts  
43 organization requests funds from the County Council above and beyond the



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1 existing application process through the Arts and Humanities Council, the  
2 request to the County Council will be submitted to the Arts and Humanities  
3 Council for comment to the County Council. So the Grants Review -- the Grants  
4 Advisory Group that is described in paragraph 5, on circle 3, will not review any  
5 grant application that is determined to be requesting funds for an Arts and  
6 Humanities program. Those grants applications will be referred to the Arts and  
7 Humanities Council for review and comment. So that's the answer regarding  
8 arts.

9  
10 Councilmember Floreen,

11 Well, well, I guess my question is does that mean that -- I mean, this seems to be  
12 a statement of Council priorities in terms of how it would allocate funds generally.  
13 Are you saying that we're going to end up with dollar amount for the Arts and  
14 Humanities Council and that will control the dollars that would be made  
15 available?

16  
17 Councilmember Leventhal,  
18 No.

19  
20 Councilmember Floreen,  
21 I'm trying to understand the...

22  
23 Councilmember Leventhal,  
24 No problem at all. We will receive on March 15th from the County Executive the  
25 County Executive's budget. We'll then proceed over the next several weeks in  
26 April and May to adopt our own budget. We are not in this document setting  
27 parameters for how much we will spend on support to nonprofit organizations.  
28 We don't know that today. We don't know how much the County Executive is  
29 going to recommend and we don't know how much we'll decide upon. So, we're  
30 not setting dollar parameters in this document; what we are doing is providing,  
31 what I hope is simple and transparent mechanism for nonprofit organizations to  
32 ask for support from the County Council.

33  
34 Councilmember Floreen,  
35 Yeah. Only -- well, the good thing is that we have an application form. I think  
36 that's a good thing. I still don't know what to say to groups about whether they  
37 should apply or what their chances are. What was the committee's thinking  
38 about the use of the advisory group?

39  
40 Councilmember Leventhal,  
41 We had a lot of conversation...

42  
43 Councilmember Floreen,



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1 And I had a rather unhappy memo from them.

2  
3 Councilmember Leventhal,  
4 Right, well, somebody go ahead -- Ms. Praisner, come on in.

5  
6 Councilmember Praisner,  
7 Let me comment; I think we had some conversation with some representatives  
8 from the group. I think it was -- we called upon folks who had been involved in  
9 previous opportunities to jump in late in the process with little dialogue between  
10 the Council and the committee folks in their review. I think what they were  
11 looking from an unhappiness perspective was more direction and some sense of  
12 conversation back and forth probably would have helped earlier to have some  
13 idea of how we were going to use the information. We've certainly had some  
14 conversation about what kind of information or guidance they give us, but I think  
15 once we finish the conversations, I don't believe that there was anger, frustration,  
16 or unhappiness with the process on the part of folks who talked with us from the  
17 group. I think, given time, which we'll have more this year for the approach, an  
18 opportunity for us to solicit folks to participate and give direction as to  
19 what we're expecting, and for them to provide that input, I think the comment was  
20 more the Council chose to fund organizations that they might not funded, but  
21 those policy decisions which individual Councilmembers will make. There are  
22 folks sitting in the audience right now who probably would not support some  
23 actions that the Council has taken on the budget. That doesn't mean that you  
24 know -- that's the job we have, which is to take all the information and input that  
25 we're given, and this is the benefit of input which is significant and which is much  
26 improved from what we've had in the past. So I think the -- I would not  
27 characterize it as an angry view on the part of the reviewers at this point.

28  
29 Councilmember Leventhal,  
30 Mr. Silverman?

31  
32 Councilmember Silverman,  
33 Thank you, Mr. Vice President. To respond to couple of Ms. Floreen's  
34 comments, as most people know, I was not enthusiastic about moving in this  
35 direction although, I did agree that we needed to have some type of a  
36 standardized application form and I thought the Advisory Committee could  
37 produce some good results in terms of feedback. I think the committee  
38 recommendations and the timeline will make the process a lot better in terms of  
39 getting feedback from the groups that will -- from the Advisory Committee that will  
40 also provide an opportunity for interaction between the advisory panel and the  
41 groups themselves, because I think there was a lot of misunderstanding because  
42 of the time constraints and I think that'll get resolved. I think as far as messages  
43 to the community, I was comfortable and I'm comfortable with the general



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1 language that's in the resolution. And my approach to the nonprofit community  
2 would be to encourage everybody and anybody to apply. We have a wonderful  
3 nonprofit community that I think is, quite frankly, many, many, many times a lot  
4 closer to what is going on the front lines of our challenges than we are. And I  
5 think we rely on them to let us know what's going on, and I don't want to  
6 dissuade anybody by suggesting that they shouldn't apply or they shouldn't apply  
7 because they're not going to have much likelihood of success. I commend the  
8 Council President and Vice President for their efforts last year which produced I  
9 think a troublesome scenario, but actually a good scenario in which we had \$9  
10 million of grant requests. We ended up with \$2 million that we carved out of the  
11 budget. There were some disappointed folks but I think there were a lot of new  
12 folks that came to the process, and just like legislation doesn't always get  
13 past in the first year, I think there was a learning -- there's a learning curve for  
14 both us and for some of the newer nonprofits about how this process works and  
15 what kind of opportunities there are. So I think the message to the community  
16 that we should all convey is, you know, access the application form, go through  
17 the process across the street and with us, and put your best programs forth to  
18 help the community that we live in, and that's why I'm wholeheartedly supporting  
19 the resolution that's before us.

20  
21 Council President Perez,  
22 Mr. Denis.

23  
24 Councilmember Denis,  
25 Thank you, Mr. President. I guess I feel about this, the way a couple of  
26 colleagues felt about a particular nominee earlier in the day. I have minimum  
27 enthusiasm for what's before us, but I will support it. I do think that one AGP is  
28 enough. We're creating another one, an Annual Grants Process and there is an  
29 aspect of this "slouching toward Golgotha" as every year we make this grants  
30 process more and more complex. We're trying to figure out right now how in the  
31 world Site Plan Enforcement ever got over in Park and Planning to begin with 10  
32 years ago. No one is quite sure. I'm not sure people are quite sure how the  
33 Annual Growth Policy started, what the derivation of that was. And I think in  
34 years to come people might look back at the complexity of the grants process  
35 that we're fostering and wonder how in the world we got involved in it. But  
36 basically I feel this is a \$50 solution to a \$5 problem, and I think this could have  
37 been done a lot more simply and I just hope that we don't have additional layers  
38 of complexity next year.

39  
40 Council President Perez,  
41 Okay, Ms. Floreen.

42  
43 Councilmember Floreen,



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1 I just wanted to say I'm going to continue to not support this. It's not -- I'm glad  
2 we have an application but I think the message out there is come. We're  
3 encouraging more groups to be created. We're encouraging more groups to  
4 come to us and at the very end we say "Oops, we don't have the money." Now  
5 that may be the case in any event but to encourage folks to apply, to make it  
6 sound like there's this big pot of money that we don't know what it's going to be at  
7 end of this year, it's part of the budget reconciliation challenge which is a huge  
8 one, which we'll always continue to be a huge one. And without real criteria that  
9 we really agree to adhere to which I believe is never going to happen, we're  
10 going to continue to send mixed messages, create a process that we really can't  
11 abide by, and make -- appear to make promises that are very well-received and  
12 that we can't deliver on. So I know this is being done with good intentions. I  
13 think, as Mr. Denis said, it makes it more complicated with less promise of clear  
14 resolution and just adds more ambiguity to an already ambiguous process.

15  
16 Council President Perez,  
17 Okay -- oh, Mr. Andrews, sorry.

18  
19 Councilmember Andrews,  
20 Thank you, Mr. President. I want to first compliment Chairman Leventhal and  
21 Praisner on their good work on this over the last 18 months or so, it's been a long  
22 time. I think this will add clarity to the process. Before this there was no  
23 outreach, no systematic outreach to the communities about the availability of  
24 these grants. There was no application form. There was no deadline. Now  
25 there is systematic outreach. There is an application form, there is a deadline.  
26 That's much clearer, that's much fairer. These are public funds. There needs to  
27 be a structure to it and accountability and I think this goes a long way and I  
28 commend my colleagues for the good work. Thank you.

29  
30 Council President Perez,  
31 Okay, do we -- all we need is a raising of hands, I believe. We don't need any...

32  
33 Councilmember Praisner  
34 Yeah.

35  
36 Council President Perez,  
37 Okay, all those in favor...

38  
39 Multiple Speakers  
40 [INAUDIBLE]

41  
42 Council President Perez,  
43 All those in favor? Opposed? Are you in favor, Ms. Floreen?





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1  
2 Councilmember Floreen,  
3 No, I'm not.  
4  
5 Council President Perez,  
6 Okay, so -- are you for or against?  
7  
8 Councilmember Praisner,  
9 He's a for.  
10  
11 Councilmember Floreen,  
12 I'm for the application.  
13  
14 Council President Perez,  
15 We're turning to Judge Alito, next, Mr. Denis, as long as we've got... So the vote  
16 should reflect 7 in favor, 1 against.  
17  
18 Linda McMillan,  
19 And just to clarify the process, the resolution itself will show on your Consent  
20 Calendar for introduction next week and action the following week, but since you  
21 have agreed to it, we need to do the introduction.  
22  
23 Councilmember Praisner,  
24 Yes, the Consent Calendar is the right place.  
25  
26 Council President Perez,  
27 Okay. Well, I apologize. We're 15 minutes ahead of schedule, and that will  
28 never happen again...  
29  
30 Councilmember Praisner,  
31 I'm sure of it.  
32  
33 Council President Perez,  
34 ...I can assure you, so we will get into a discussion of Judge Alito now and  
35 Harriet Miers and other things. So why don't we recess until 10:45. I see Chief  
36 Manger's here but I know we had a...  
37  
38 Unidentified  
39 Several of our youth folks aren't here yet.  
40  
41 Council President Perez,  
42 Yeah, we have a number of people who need to be here, so we'll reconvene at  
43 10:45 sharp.



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1  
2 Recess

3  
4 (music)

5  
6 Council President Perez,  
7 We'll be going in 60 seconds. Yeah, no, no, go ahead. Okay, good morning.  
8 We are going to have a discussion for the rest of the morning continuing on some  
9 of the discussions we've already had in the full Council session regarding our  
10 overall county strategy for prevention of youth violence, and we've had a number  
11 of discussions previously. I want to welcome everybody here. I want to welcome  
12 our newest member of the county team, Luis Cardona. We're very, excited to  
13 have you aboard, as one of the positions that was funded in our budget was the  
14 coordinator position and we're very, very honored that Luis has accepted this and  
15 I think he will be a very important lynchpin in our efforts as we move forward in  
16 developing a comprehensive strategy emphasizing both intervention, prevention,  
17 and suppression. So we're going for start out this morning hearing from the kids.  
18 And I don't mean that -- I mean that very respectfully and we've had a number of  
19 conversations about youth violence and we've said a number of times about --  
20 we've talked about the importance of making sure we hear directly from our  
21 affected populations. And so we have Chief Manger and other County officials  
22 here but we thought it would be important to start out by hearing first and  
23 foremost from our affected population. So I'm very excited to be joined -- we  
24 have the Diego Uriburu from Identity, and Diego, I think -- Juan, is Juan Zabala  
25 here?

26  
27 Unidentified,  
28 [INAUDIBLE]

29  
30 Council President Perez,  
31 Okay, so Juan will be here shortly, and Stefanny Aramayo? Stefanny is here.  
32 Okay, and then we also have, I think, Bryant Scott. You're with Good Hope  
33 Police Athletic League?

34  
35 Bryant Scott,  
36 Yes.

37  
38 Council President Perez,  
39 Great. And Tri Dang and Duc Duong, and you're with the Asian-American LEAD.  
40 And LEAD I believe stands for: leadership, empowerment, and development.  
41 Great, I really appreciate all of your presence here today. And what we're hoping  
42 you could do is educate us, and talk to us about your own experiences and give  
43 us your perspectives on where you think we should be going, what you think



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1 we're doing right, what you think we need to be doing more of, what you think  
2 we're doing wrong and those are the things we'd like to hear from you. And so  
3 that's what we'd like to do first. So let me start out, Diego did want to -- did you  
4 have any preliminary remarks you wanted to make, or do you... Okay, if you  
5 could -- we're hoping if you can all talk for maybe three to four minutes each that  
6 would be great, and then I'm sure there are going to be a few questions. I also  
7 want to give Mr. Andrews, who's the Chairman of our Public Safety Committee  
8 who's been a stalwart on this issue. When you're done I want to give him an  
9 opportunity, if he has anything to say at the outset. Diego.

10  
11 Diego Uriburu,

12 Good morning and thank you very much for having me here. My name is Diego  
13 Uriburu, I'm the Deputy Executive Director for Identity. And I congratulate you for  
14 asking the question that not very many people want to ask, which is "Why?"  
15 Why is there violence in Montgomery County? I'm not sure you'll like the answer  
16 I have. I think individuals generally don't act violently...

17  
18 Unidentified

19 [music]

20  
21 Diego Uriburu,

22 individuals usually don't act violently without a reason. The level of violence and  
23 the anger that we're witnessing is in response to something major. The acts are  
24 in response to the violence and anger they perceive as coming from the general  
25 Montgomery County community. This violence, the one currently being executed  
26 by all of us, is silent, does not get to headlines. It's ongoing, overpowering, and  
27 what is worse, accepted by all of us. These youth are reacting in desperation to  
28 the many doors they see closing in front of them, to the rejections they  
29 experience on a daily basis from all of us to the lack of genuine interest we have  
30 in them, and to the agony they can no longer tolerate. These youth -- this  
31 community undergoing a tremendous level of pain watch us commit the violent  
32 acts of not responding accordingly, and what is even more painful, sometimes  
33 not even acknowledging that their pains or that they exist. The challenges  
34 presented by our Latino immigrant community are unprecedented to Montgomery  
35 County. The systems that have worked for Montgomery County residents for a  
36 long time are failing to meet the needs of these communities. And so far we  
37 have not created alternative systems. How does this silent ongoing and  
38 overpowering violence manifest itself? I have some examples. When the  
39 administrator at the [Harris'] high school at the time of yelling at him and  
40 suspending him for a second time, never took the time to ask him what was  
41 going on with him. Harris never got to tell him how desperate he was. He never  
42 got to tell him how his alcoholic stepfather was physically and emotionally  
43 abusing his mother. He never got to tell him how his mother had promised him

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1 countless times that we're going to soon move out of that house and live in a  
2 small apartment. He never got to tell him how he wanted to physically hurt this  
3 abusive stepfather and how his mother asked him to promise him not to do that.  
4 His mother was afraid they would be homeless because the father owned the  
5 house. He never got to tell him how his mother had been diagnosed with a  
6 severe cancer. He never got to tell him how his sister tried to commit suicide  
7 twice that year. He never got to tell him how everything that was happening that  
8 particular year had happened to him before. When he was a little kid his actual  
9 father took tied him up from his hands to his back, he tied his feet to the table  
10 and had him stay there for hours and sometimes days, feeling like an animal.  
11 How he's never had a chance to tell this to anyone. Today this administrator only  
12 knows that Harris is in jail. No one ever noticed Maria at the school. She was  
13 always very quiet, almost invisible. No one noticed how she slowly began to  
14 change, how she began to skip school to hang out with gang members, to have  
15 all kinds of destructive behaviors. No one noticed her. No one asked. She  
16 never told anyone about crossing the desert with her mother. She never told  
17 anyone how they got lost and how they thought they were going to die of thirst.  
18 She wished they had. [INAUDIBLE] provided them with water and proceeded to  
19 rape the mother. When it was her turn to get raped she fainted when she saw  
20 her mother's tears rolling down her face. Maria is no longer in school. She's a  
21 mother of a fatherless baby and no one ever knew and no one ever asked. From  
22 her perspective, no one ever cared. When the Vice Principal yelled at [Adolfo]  
23 for banging a door and suspended him for two days, he never asked him what  
24 was he feeling and why was he so angry. The Vice Principal and the school  
25 never knew that he had stayed night after night awake trying to protect his  
26 mother from an alcoholic partner who had threatened to kill her and his entire  
27 family and if they were to report that to the police, he make sure the contacts  
28 back in El Salvador would kill this family members. No one ever knew. I have  
29 many, many more examples of this. The youth that we work with, these youth  
30 that you are trying to reach see themselves through the eyes of our dominant  
31 culture and they don't like what they see. Attached -- I have testimony here,  
32 copies of an exercise that we did with middle schoolers and 100 percent -- they  
33 were asked -- they were given an incomplete phrase and the phrase was, "I think  
34 most Americans think people from my country are..." And some of the responses  
35 that they said include: "we only work for cleaning bathrooms," "we're losers,"  
36 "we're trash," "we can't be scientists, artists, doctors, lawyers because we come  
37 from a different country." "We're alcoholics, stupid, noisy, dumb, and we have no  
38 education." "We think of us as drug addicts, alcoholics, gang members, and  
39 some are even scared of us." I think an image is more than a thousand words.  
40 And you can see how this girl wrote that she was brown and ugly, stupid, a gang  
41 member, and she drew herself crying. And 100 percent of the youth in this class  
42 responded negatively to the image that they perceive society having of them.  
43 This type of violence, the one that we inflict, occurs at all levels. It occurred at a



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1 Board of Education a month ago when two Latino mothers had the courage to  
2 testify for the need for translation services. The children were there in the  
3 audience, they were proud because they knew the mothers were afraid to testify  
4 for the first time. They testified in Spanish. Everyone in the audience was  
5 surprised to the that the Board of Education was not able to understand a word  
6 that they were saying. There was no one translating for them. In reality, not  
7 everyone was surprised. The two mothers and the kids in the audience were not  
8 surprised. They had undergone this type of violence before. And I think that if  
9 we really want to address the issue of violence and the issue of dropout rates  
10 and the issue of teen pregnancy we need to look at the roots of what's going on  
11 and in the reality, and I'm sad to say, Montgomery County and sometimes  
12 including the parent of these youth are not really reaching out to this community.  
13 We pretend that we do, we put some funding here, some funding there, but this  
14 community is not being reached out to. Thank you very much.

15  
16 Council President Perez,

17 Okay. Thank you. Why don't we turn to Juan Zabala? Okay [speaking Spanish],  
18 okay.

19  
20 Multiple Speakers,  
21 [speaking Spanish]

22  
23 Juan Zabala, - (Through translator)

24 My name is Juan Zabala, and I thank you for the chance of being here and I  
25 hope my testimony helps in some way. I have had a lot of problems related to  
26 violence. I'm a member of a gang. And I was in jail for seven months. Now that  
27 I have been out, and I want to change, it is very hard for me because I am a  
28 member of a gang. And society denies me the chance to change. but my fear is  
29 that denying me the opportunity to change, the only opportunity that I have is to  
30 go back to the street and in the street we'll be doing the same thing. And then  
31 we go back to jail. And the society wants the violence ends with its gangs, but  
32 they don't help us to change. They only close the door to us, and then we just go  
33 back to the violence and the gang. I know that kids get into the gangs because  
34 sometimes they don't have opportunities. And the gangs, they find some help.  
35 Some of the things that they deny them, they find them in the gangs. I have  
36 talked to kids that have wanted to get into the gang, but when I talk to them, they  
37 ask me how could you get in a gang? This ask me how could you get in a gang -  
38 - they ask me how could I get in a gang, and then I explain what is the bad thing  
39 of the gang and the way that they help us. I explain the bad things in the gang.  
40 If they still want to get in the gang, it's a problem for them. But I explain it very  
41 carefully all the bad things that can happen to them in the gang. And the bad  
42 things are they're going to be in problems, they're going to go to jail, and when  
43 they get out of jail, and they want to change, and it's going to be very difficult with



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1 the society. And because I know because it happened to me, I don't want other  
2 kids that happened what happened to me. Because the only thing that they're  
3 going do, if the doors close, they're going to go back in the streets. And they  
4 have to think very carefully. We as a community will have to help these kids and  
5 not to close the doors. Because that's what's happening to me now. I'm trying to  
6 change, but it's hard because society closes the doors. We have to open doors,  
7 not to close them. I hope that you guys don't close the doors to other kids like  
8 they are closing them to me.

9  
10 Council President Perez,  
11 [speaking Spanish] Okay, [speaking Spanish] Teresa?

12  
13 Translator,  
14 [speaking Spanish]

15  
16 Council President Perez,  
17 Okay.

18  
19 Stefanny Aramayo, - [Through translator]  
20 My name is Stefanny Aramayo, I want to thank you for giving me the opportunity  
21 to be here and to listen to me. I want to talk to you about the violence among --  
22 of students and why is it -- young people and why is the violence there . It is --  
23 there's a lot of anger in our hearts and sometimes we think because getting  
24 angry and fighting, we can get that anger out of our hearts. Because we want to  
25 be better than other people. And sometimes we think that fighting with other  
26 people, we're going to achieve that. Also because we're proud, and we don't  
27 other people to think that we're less than other people, and that's why we fight.  
28 Also for revenge, and because somebody makes us feel bad, the only way that  
29 we can feel better is to take revenge and fight. Because we don't have anybody  
30 to talk to and express ourselves, and we feel the only way to do it is by being  
31 violent. Also because many of us in our homes, we see violence in our own  
32 homes since when we are very little. And we think that there's something we can  
33 do inside our home and outside and in the schools. The majority of the persons  
34 in our community, we use the violence because we have problems at home,  
35 schools, and we feel like we're nothing in life. And we you use violence so you  
36 guys can recognize us as somebody. Because sometimes we feel that people  
37 think that we don't exist and we want you to know that we exist and we use  
38 violence for that. If you guys don't recognize us as a good person, maybe you  
39 will recognize us as a bad person. Thank you.

40  
41 Translator,  
42 Thank you, gracias.



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1 Council President Perez,

2 Thank you, Teresa for that -- okay. Good morning. You can state your name  
3 again, Bryant, for the television audience. That would be great. Bryant Scott, My  
4 name is Bryant Scott, and I'm 16 years old and I'm currently a senior at  
5 Springbrook High School. The question I'm going to answer is why do I think  
6 people join gangs. I think people join gangs for one or two reasons. One would  
7 be to fit in. They feel as though they see people that are just like them, whether  
8 it's by race, sex, whatever. They feel as though that's who they want to be with.  
9 The other reason is they feel a gang can provide them with a family, a family,  
10 whether they're not getting what they need at home or whatever else and a gang  
11 will provide them with what they need. Me, I'm actually a PAL representative  
12 right now and I joined PAL in 2000 mainly to keep me out of trouble and because  
13 my mom wanted me to.

14  
15 Council President Perez,  
16 Good reasons.

17  
18 Bryant Scott,

19 but before I joined PAL, I was a troubled kid. The neighborhood I live in now you  
20 can consider a bad neighborhood, but trouble was like a good thing to us,  
21 fighting, stealing, doing the negative. Then when I joined PAL in 2000, I realized  
22 that change can happen if you let it happen: And also when I joined PAL I  
23 realized that it keeps you out of trouble and it shows you -- it reinforces the goals  
24 I set for myself, my mom set for myself, and it gives you positive role models.  
25 And that's what you need for you to be successful. And PAL has showed me that  
26 by reinforcing my goals, education is the key to success. And by in a gang, most  
27 likely you can get education. Most likely you won't get education, because you're  
28 focused on something else other than school and the positive. PAL keep me out  
29 of trouble by giving me something to do after school, and even after PAL hours,  
30 such as I played on the basketball team at PAL. I visited jails at PAL, which does  
31 show me that the gang life can take you two ways. If you're in a gang, you can  
32 get out, yes, but standard gang can lead you to death or to jail and after visiting  
33 the Patuxent institute, jail is not a place that I want to be. Also I'm now currently  
34 a staff at the PAL Center to show that I have went from -- that I'm on my way up.  
35 I'm on the rise to be successful. But I don't consider myself a staff in the PAL  
36 Center. I like to consider myself a big brother to the PAL Center. All the kids,  
37 yeah, they look up to me. They want to be like me. They don't know my past,  
38 but they know my present. They know what I am now and that's what they want  
39 to be like. PAL's kept me -- do I know people in a gang? Yeah, I know a couple  
40 people in a gang, they live in my neighborhood, and that road is not the road that  
41 I want to take. I tried to explain that to them. I mean, they hear it, but they don't  
42 listen to it. The gang is their family. They don't have a family at home. A guy in  
43 my neighborhood, his brother died. He doesn't live with his dad any more. He



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1 just has him and his mom. So he's going through a lot of things. His mom is  
2 never home so he feels as though he's home alone he needs a family. And a  
3 gang is the family that will provide what he needs. And I'm trying to explain to  
4 him that there's also another family out there that's positive. And PAL is an  
5 example of a family that is positive by the all the role models that are in PAL, the  
6 police officers, the boxing instructor we have, schools, tutors, and they show you  
7 that change is possible and change can happen. Thank you.

8  
9 Council President Perez,  
10 Thank you. Good message -- Tri?

11  
12 Tri Dang,  
13 Good morning, Councilmembers and special guests. Thank you for giving me  
14 the opportunity to speak today. My name is Tri Dang, I'm a senior at Albert  
15 Einstein High School. I'm moved from Montgomery County from D.C. four  
16 months ago. I'm here to share with you what I know about gangs in my  
17 community. In the D.C. metropolitan area many people [INAUDIBLE] a lot of  
18 Latino gangs. What you may not know is that we have gang problems in this  
19 community as well. When people think of Asian-Americans, they tend to think  
20 that we're all good students and well-behaved children. Well, like other  
21 communities we have young people who are doing well, and also young people  
22 who have serious problems. As refugees and immigrants many parents, like my  
23 parents, don't speak English, know very little about the culture and the way of life.  
24 They work all the time to put food on the table, pay rent, and send money to --  
25 home to relatives in Vietnam. As many of you know D.C. can be a tough  
26 neighborhood to grow up in. I remember when I was 10 years old, not long after  
27 we immigrated to the United States, my brother, my sister, and I were out playing  
28 in front of the house. Right nearby these two guys were fighting. All of a sudden  
29 one pulled out a gun and shot the other. You hear a lot about these negative  
30 occurrences, mostly through words of mouth in the Vietnamese community. If  
31 you aren't lucky enough to have supportive people in your life, then it's easy to  
32 get on the wrong track when you grow up in D.C. I've been lucky to be  
33 surrounded by caring people who love for me and make sure that I'm on a  
34 positive track. Many youth in the community are not so fortunate. I'd like to  
35 relate some examples. These are real stories, but if you don't mind I'm not going  
36 to use any real names. In my own neighborhood, Park Road, it's considered a  
37 dangerous place to be at night and a hangout area for gangs, both Latino and  
38 Vietnamese There are a lot of drug pushing that occurs in the vicinity in the  
39 setting of kids. Even as young as middle schoolers can be recruited to transport  
40 drugs, one boy, Tran, was only 16 years old when he dropped out of high school  
41 and left his family because he joined a gang on Park Road. He lacked a  
42 supportive atmosphere at home which should have provided him with the  
43 expectations required to succeed in life. His older sister and brother had





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1 previously dropped out of high school and his sister had a baby out of wedlock  
2 and moved away. There's [Min] a ninth grader who used to live in the same  
3 building as me, he's the oldest children of 6 -- he's the oldest child of a family of  
4 six. His father's a Vietnamese Amerasian, children of mixed race that were  
5 created from the Vietnam war. Min gets into trouble at school all the time. He  
6 follows classmates, curse and threaten his teachers, often he was suspended  
7 from school. Last year he started hanging out with gangs in my neighborhood. I  
8 know these are examples from D.C. but many families from my community have  
9 and continue to move out into the suburban Maryland. I can give more examples  
10 but I know that I only have a short time to speak. But I want to tell you that many  
11 Asian-American children need your attention and need your help. We do not all  
12 live the model minority lifestyle. Before I conclude here are my specific  
13 recommendations. First, young people need to have caring adults who support  
14 and guide them. Second, young people need stable families and supportive  
15 parents. There needs to be programs that work with parents. And third, young  
16 people need good programs that engage them in positive activities. We need  
17 community organizations like Asian-American LEAD, who do lots of fun activities  
18 for young people and keep them out of trouble. I hope my testimony has been a  
19 help to you. And I urge you to include Asian- American children in your work to  
20 prevent gang activities in Maryland. Again, thank you for giving me the  
21 opportunity to speak.

22  
23 Council President Perez,  
24 Thank you. Duc?

25  
26 Duc Duong,

27 Please excuse my voice today, I just came from the orthodontist, so... Thank  
28 you, Councilmembers, for giving me this opportunity for youth and me to share  
29 our thoughts and experiences with you. My name is Duc Duong, I'm a 11th  
30 grader at Albert Einstein High School. I lived in Maryland for six years, having  
31 moved here from D.C. Many of my friends consider Maryland a much safer place  
32 than D.C. but as evidenced by this forum, gang activity in the suburban Metro  
33 areas can be just as established and dangerous. My school is a place where I  
34 used to feel safe. However, it is believed that MS13 gang members are students  
35 at my school, and were a source of a fight that occurred earlier this school year.  
36 It is often known among the students that drug use and drug dealing occurs on  
37 school grounds. I know that this forum is also an opportunity for me to share  
38 some thoughts on what we as a community can do to prevent gang activity in our  
39 neighborhoods. The factors in a young person's life that I think lead to positive  
40 youth development include family, school, and just having a positive influence on  
41 the younger generations. My family has been a stable source of support for me,  
42 but I was also fortunate to have been involved in constructive afterschool  
43 programming when I was growing up in D.C. I was also -- I was only in



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1 elementary school then. But Asian-American LEAD programs were offered to all  
2 ages, spanning elementary to high school ages and even to parents. It is  
3 important to have youth programs that provide a safe space for young to hang  
4 out after school. Youth needs programs to engage them in constructive  
5 programs that force -- that focus on positive youth development Programming  
6 also has to be able to support youth on all of the influential factors in their lives,  
7 to their parents, to their school and their friends. Thank you.

8  
9 Council President Perez,

10 Thank you to all of the panelists. As we have had this dialogue for a number of  
11 months, I've always felt it important to be thinking about what would you say and  
12 what would you think and what would you advise us. And so that's why we  
13 continue to do this and as we move forward with the implementation of our  
14 strategy we will continue to ask that, and we'll continue to have you and the faces  
15 and memories and testimony of all the affected youth in our minds and in our  
16 hearts as we move forward. So this has been very, very useful. I had a couple  
17 questions, but I want to turn first to the Chair of the Public Safety Committee, Mr.  
18 Andrews, who's been very, very involved in this. I want to thank you for your  
19 leadership.

20  
21 Councilmember Andrews,

22 Thank you, Council President, for arranging this meeting. I think it is critical to  
23 hear directly from young people. 30 years ago I was a junior at Einstein High  
24 School like you are now and I think the challenge that we face is staying in touch  
25 with what is happening today and this is one way to do it that's helpful. So thank  
26 you all for coming forward today and talking about what you think needs to be  
27 done. I want to delve a little bit more into specifics and get into what you  
28 specifically think would change things and make things better. Juan, you  
29 mentioned a couple of things. But what I want to ask is what specifically do you  
30 think would have kept you from joining the gang that you're in. And what would  
31 help you leave the gang?

32  
33 Translator,  
34 [speaking Spanish]

35  
36 Juan Zabala, - (Through translator)

37 Juan says that the problem was that he, when he was left at home by his  
38 parents, his parents came ahead and he has a typical reunification problem. He  
39 was left there and he saw a lot of violence and he suffered a lot. So once he  
40 came here he was still suffering and he didn't know what to do and he couldn't  
41 find any program to join so would not be violent like he was at home.

42  
43 Councilmember Andrews



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1 What type of program might have helped you?

2

3 Translator,

4 [speaking Spanish]

5

6 Juan Zabala, - (Through translator)

7 The program like Identity would have helped me.

8

9 Councilmember Andrews,

10 So a program, afterschool program, a weekend program, something that was a  
11 mixture. What type of things would have appealed to you? What specifically --  
12 what aspects of a program?

13

14 Translator,

15 [speaking Spanish]

16

17 Juan Zabala, - (Through translator)

18 He said the problem should include also the weekends because the weekends  
19 the friends just come and tell you let's go to the street and then they start  
20 drinking, and when you start drinking, you start doing bad things. And he says  
21 there's nothing for them to do. They don't know what to do on the weekends.

22

23 Councilmember Andrews,

24 Okay, you also mentioned, Juan and Stefanny, and perhaps as well some of the  
25 others, that one of the problems was there wasn't anybody to talk to who  
26 understood. We have a very dedicated group of counselors and school  
27 psychologists in our school system, but I don't know that many of them are able  
28 to speak Spanish or not. How much...

29

30 Translator,

31 [speaking Spanish]

32

33 Councilmember Andrews,

34 Is it a problem that students who don't speak English well, speak Spanish well, is  
35 it a problem in finding people at school who understand or you can talk to who  
36 are counselors or psychologists?

37

38 Translator,

39 [speaking Spanish]

40

41 Stefanny Aramayo, - (Through translator)

42 [speaking Spanish] -- Well, I'm going to say it in English 'cause... When you get -  
43 - when you come to this country and you don't know English, you don't know



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1 anybody, everything is different, different culture, different people, different  
2 language, different -- like everything is like a new world. You starting everything  
3 new, and when you don't have anyone to talk to -- in schools we do have  
4 counselors, I know we do have like psychologists and all that thing, but for us, it's  
5 really hard to go up to someone and tell them how we're feeling because we  
6 don't have -- we don't know how to express -- we know what we feel inside but  
7 since we don't know English, we don't know how we're going to communicate  
8 with them, and we don't know how to express ourselves in English 'cause it's  
9 really hard 'cause we don't know. And so that's why I think we should have  
10 someone in Spanish so he could be there to give us advise in Spanish, so we  
11 can understand and so we could feel more comfortable. 'Cause we don't know  
12 here the peoples, we lived our whole life with Spanish people so we don't feel like  
13 comfortable. We don't feel like the same -- we don't have the same -- I don't  
14 know but like comfort. We don't feel comfortable. So if you talk to someone in  
15 Spanish, like you know they're going to be listening to you like every word you're  
16 saying because it's the same language and you're going to listen to them like be  
17 everything they're telling you because you're understanding, so that's what I'm  
18 saying like we should have someone in Spanish that could like communicate  
19 with.

20  
21 Councilmember Andrews,

22 Okay, I'd like to get numbers from the school system about the number of school  
23 psychologists and counselors that speak Spanish. I think that would be useful to  
24 know and I want to ask Bryant and Tri and Duc if they have thought specifically  
25 about what you think we should -- what the county should be doing that it isn't  
26 doing, or that it should do more of that would keep young people from joining  
27 gangs?

28  
29 Bryant Scott,

30 You said help, either make more programs that help prevent the violence and  
31 help troubled youth, and even if they've lot -- make sure it's known that they have  
32 a lot. Like, say the PAL, we put PAL, say we put a PAL -- somebody from PAL  
33 came to a school and told people that they can join this. You have to put it, make  
34 it known so that everybody knows that help is out there.

35  
36 Councilmember Andrews,

37 Okay. Okay, Tri.

38  
39 Tri Dang,

40 I agree with what Bryant said. We should have a variety of afterschool programs  
41 so that way kids have things to do at the school so they don't get into gang  
42 problems and it should be known. 'Cause most of the kids are unaware that  
43 there're after-school programs that can help them.



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1  
2 Councilmember Andrews,  
3 Okay, thank you. Duc?

4  
5 Duc Duong,  
6 Connecting with what Bryant and Tri said, I think we should make gangs known  
7 in the schools because at my school, we know that there are gangs but teachers  
8 rarely talk about them. So we need someone just to tell us what's going on in the  
9 school system, because when there's a fight at my school, all we know is two  
10 kids were just fighting. That's all they tell us. But then when other students talk  
11 to us, we hear that gang members are fighting and all that, so we just need  
12 someone to make it known.

13  
14 Councilmember Andrews,  
15 Okay, thank you. One of the concerns that Council had is to make sure that  
16 there is adequate communication and coordination between the school system  
17 and the Police Department with regard to violence in the schools. And that the  
18 Police Department and others know what they need to know, and that would  
19 include students at the school as well. So thank you all for your suggestions.  
20 One other point I want to make and that is that the Council has worked to take,  
21 endeavored to take a balanced approach to this which combines a combination  
22 of preventive activities -- prevention activities, intervention, and enforcement.  
23 And I think it is critical that we have all three and I think we're weakest in the  
24 prevention and intervention areas. I think that we have a very -- we have an  
25 outstanding Police Department and we added 29 positions in this current budget  
26 and a gang coordinator to coordinate the work of the dedicated gang unit that's  
27 there now. But I think we're actually are in more need of greater activities in the  
28 prevention and intervention area. There's very little effective intervention I think  
29 to help young people who are in gangs to get out and stay out successfully. I  
30 think that it's a tough thing to do but I don't think we've got much going there yet  
31 and I think we need to do more in that area and I'm very interested to hear you  
32 on -- and we can talk offline about what kind of things you think need to be done  
33 there. But thank you for your suggestions. It takes a lot of courage to come to a  
34 Council meeting and speak up and we really appreciate your doing so, thank  
35 you.

36  
37 Council President Perez,  
38 Ms. Praisner.

39  
40 Councilmember Praisner,  
41 I want to add my thanks, as well, to all of you for coming here today. You should  
42 feel very proud about the way you have helped us to understand the issues that  
43 you face. I had one question that relates to outreach and trying to get folks to



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1 understand or know information. Teresa, I don't know if you want to translate?  
2 Sure.

3  
4 Translator,  
5 [speaking Spanish]

6  
7 Councilmember Praisner,  
8 In Montgomery County in the past and even today, we have a fairly good way in  
9 which we have tried to contact folks and do outreach. But the models that we  
10 use have been in place for a long, long time. And they don't work any more in  
11 my view.

12  
13 Translator,  
14 [speaking Spanish]

15  
16 Councilmember Praisner,  
17 That's true for things the Council does every day about budgets, about land use,  
18 about setting priorities, so what you're saying is not unique to the gang  
19 prevention or youth violence issue. I think it is true for a whole host of things that  
20 we need to do differently about talking to people and getting an opportunity to  
21 really share information.

22  
23 Translator,  
24 [speaking Spanish]

25  
26 Councilmember Praisner,  
27 Asking you to come here as opposed to our going to where you would feel most  
28 comfortable is an example of some things that I think we need to do better and  
29 differently.

30  
31 Translator,  
32 [speaking Spanish]

33  
34 Councilmember Praisner,  
35 It's helpful to come here because of the cameras and the television and the  
36 publicity that comes from having a conversation at the Council, but unless we  
37 can find ways to get beyond that, it's a point in time rather than real change.

38  
39 Translator,  
40 [speaking Spanish]

41  
42 Councilmember Praisner,



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1 Folks are very busy, you've already commented about issues of your parents  
2 with work schedules or some of your friends that you know about who have work  
3 schedules that make it hard to get information, even if they knew where to go for  
4 the information.

5  
6 Translator,  
7 [speaking Spanish]  
8

9 Councilmember Praisner,  
10 I'd be interested in any more specific suggestions that any of you have about how  
11 we get information, information about where folks can go for help, information  
12 about activities, any other -- solicitation of input and suggestions from -- from  
13 you, from our residents in our community of what folks want and need. Any  
14 thoughts that you have from a youth perspective, you talked about outreach and  
15 education, but those of us who have a lot of gray hair aren't necessarily traveling  
16 in the same groups that you are, and we really need your input and suggestions  
17 for how to get that information out to the folks -- to other people, to not just the  
18 traditional folks that we see all the time.

19  
20 Translator,  
21 [speaking Spanish]  
22

23 Councilmember Praisner,  
24 So any thoughts you might have that you want to add now or later, I think every  
25 Councilmember would be interested in knowing.  
26

27 Translator  
28 [speaking Spanish]  
29

30 Juan Zabala, - (Through translator)  
31 [speaking Spanish] He says you're asking him to come, but they cannot come to  
32 you. He says thanks for a program like Identity, that's why he's here, because  
33 they're helping him to communicate with you. That's what they need, you know,  
34 the go-between.  
35

36 Councilmember Praisner,  
37 Right, no, I understand that and I think you're talking about organizations and  
38 individuals with whom you feel more comfortable and with whom you have an  
39 opportunity to interact, that you might not have with the Council or with some  
40 government entities. That -- that's very important and I appreciate it, having had  
41 -- having that opportunity. I think to the extent you have beyond an organization,  
42 other vehicles, other methods of getting information, it would be helpful for us to  
43 better understand them.



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1  
2 Translator,  
3 [speaking Spanish]

4  
5 Councilmember Praisner,  
6 Thank you.

7  
8 Council President Perez,  
9 Ms. Floreen -- did you -- oh.

10  
11 Translator,  
12 [speaking Spanish]

13  
14 Juan Zabala, - (Through translator)  
15 Ms. Praisner, she says that you have to try to communicate with them because  
16 they don't know how to communicate with you.

17  
18 Councilmember Praisner,  
19 Exactly, that's what I meant.

20  
21 Council President Perez,  
22 [speaking Spanish] Ms. Floreen.

23  
24 Councilmember Floreen,  
25 Thank you very much. I wanted to say -- well, first I wanted to thank the Council  
26 President and the Chair of the Public Safety Committee for your work in putting  
27 this together. I wanted to say to Juan and Stefanny and Bryant, Tri, and Duc,  
28 thank you. This is not so hard.

29  
30 [laughter]

31  
32 Councilmember Floreen,  
33 You have done a very good job in speaking to us today.

34  
35 Translator,  
36 [speaking Spanish]. He understood.

37  
38 Councilmember Floreen,  
39 Okay, and we hope that you will keep talking to us. As Ms. Praisner says,  
40 everyone is busy, but we have e-mail, we have the telephone, and we hope that  
41 you will feel comfortable in talking to us. This very much helps us to understand  
42 your feelings and thoughts and we are really listening. One person can make a  
43 very big difference in this County and I want you to know that. So, thank you for





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1 being here, thank you -- luckily it was a no school day! So, you can be here  
2 without losing time with your studies. But it is important for you to be involved  
3 and you're doing a very good job. You've shown that you can do it and we know  
4 that you can continue. So, thank you for being here.

5  
6 Council President Perez,  
7 So we were...

8  
9 Translator,  
10 [speaking Spanish]

11  
12 Council President Perez,  
13 [speaking Spanish] Thank you very much and thank you for shining a light on an  
14 aspect of the challenge that we all too frequently don't focus enough attention on,  
15 which is how this affects every community in Montgomery County and I think  
16 your presence here was very important to shine a light on that issue. And I'm  
17 really confident that we're looking at tomorrow's leaders. [speaking Spanish]. It's  
18 very important that we listen to you and I'm very grateful and we will continue to  
19 listen to you. So thank you, and -- oh, I'm sorry, Mr. Leventhal, I apologize.

20  
21 Councilmember Leventhal,  
22 I'm sorry, Mr. President, of course, we want to thank our young constituents who  
23 spoke to us today. But I also want to really say, as we talk about supporting  
24 nonprofit organizations, as we did earlier, Identity has arrived on the scene at the  
25 right time and when we talk -- when we listen to young people who feel that there  
26 is no one available to listen to them, exactly the kind of activity that we've all  
27 gotten to know about at Identity, with middle school and high school young  
28 people supporting each other and being there for each other, primarily in  
29 Spanish, it's a safe place where young people can go, where they can go on the  
30 weekends. Juan was talking about, you know, that there's -- there's nothing for  
31 kids to do on the weekends, but Identity has activities. So I just want to -- I think  
32 that Identity's success is emblematic of why we need to be doing the kind of work  
33 and thinking that we have been doing about whether our support for the nonprofit  
34 community is appropriately, timely, and relevant and germane to what is  
35 happening in the community right now. Identity has some growth pains because  
36 it is so much offering the right program at the right time that Identity alone can't  
37 meet the needs of every kid in Montgomery County. And that kind of thing, that  
38 sort of a place, where young people can go and feel safe and support each other  
39 and have people who can support them in their own language. Obviously  
40 Identity is providing those services in the Spanish community, I'm sure there's  
41 needs in the Vietnamese community and other communities, as well. But  
42 Identity, which is a very young organization, which is not able to take the entire



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1 burden of this problem on itself, is nevertheless achieving a lot of success,  
2 getting a lot of attention and is a model -- can't do it all by itself.

3  
4 Council President Perez,  
5 Teresa?

6  
7 Translator,  
8 [speaking Spanish]

9  
10 Council President Perez,  
11 Okay. [speaking Spanish] Thank you very much and we'll continue to keep the  
12 dialogue open. Thank you, Bryant, thank you to everybody. Thank you, Diego.

13  
14 [applause]

15  
16 Council President Perez,  
17 Let's turn to -- Okay, Chief Manger, top that! Let's turn to our colleagues in  
18 County government. We've got Director Colvin here, we have Chief Manger. We  
19 have -- I thought I saw...

20  
21 Thomas Manger,  
22 Luis should stay, we need to meet with him.

23  
24 Council President Perez,  
25 Yeah, Luis is -- Luis, are you staying or are you leaving? He's just going out to  
26 say hello. Okay. [INAUDIBLE] He's probably going out to say hello to the kids. I  
27 saw Dee Walker here at some point, Chief Walker was somewhere, but I know  
28 she's working hard. And we had -- there he is. Good morning, our friend from  
29 MCPs, Ed Clarke, and Henry Montes, the Co-Chair of the Community Action  
30 Task Force. Let me turn to either Director Colvin or Chief Manger to begin and  
31 let us know what's been going on and where you think things stand and what  
32 progress have we made since three or four months ago when we last met? And  
33 what thoughts do you have on what we've heard today about the need for  
34 additional intervention and prevention support?

35  
36 Carolyn Colvin,  
37 Good morning, everyone. I'm Carolyn Colvin, Director of the Department of  
38 Health and Human Services and also the Co-Chair of the County's Gang  
39 Prevention Steering Committee. I do want to thank you again for providing us  
40 with the opportunity to update you on the progress that we've made in advancing  
41 the County's gang prevention effort. I also want to thank you and commend you  
42 for having the young people come forward and share their thoughts about what  
43 we need to be doing to assist them in this very challenging problem. This



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1 morning, we're joined by my colleagues, and they will be speaking later so I won't  
2 take the time to introduce them, but just briefly make some comments. When we  
3 met last, we reviewed the scope of gang activity in the County and we discussed  
4 effective approaches that have been used and we provided you with our plans for  
5 the future. So today what I'd like to do is share with you the progress that we  
6 have made since June. As you will note in our discussion, much has been  
7 accomplished and yet much still remains to be done. Some of the highlights of  
8 our progress include the hiring of the Youth Violence Prevention Coordinator.  
9 We're really delighted to have Luis Cardona with us and already he has made  
10 tremendous contributions to our efforts and later he will share with you some of  
11 his experiences and early impressions relative to our gang prevention efforts.  
12 Another highlight is the award of funds, \$364,596 from the Office of Juvenile  
13 Justice and Delinquency Prevention. As you know, these funds are for our joint  
14 efforts with Prince George's County. We've also signed a lease for the new  
15 Youth Opportunity Center, which is located at 7676 New Hampshire Avenue.  
16 Yesterday we conducted a walk-through at the site with our partners from Prince  
17 George's County and we're working with community providers to identify  
18 opportunities for providing satellite services at the Center. We've also issued an  
19 RFP, which closes on November 28th to secure community providers who will  
20 provide services at the Youth Opportunity Center. Some of the services include  
21 employment education, training, support in the area of behavior health services  
22 prevention, outreach activities. We've also begun the formation of a Youth  
23 Leadership Council which would work on decision-making and leadership  
24 opportunities for the affected youth of our community. And they've had a  
25 meeting. Members of the Council will be identified by community partners and  
26 will represent young people who are in gangs as well as those who may be at  
27 risk for joining gangs. We also have convened a Youth Provider Council, whose  
28 members include the many organizations delivering services to youth in the  
29 County. Our discussions and planning have been very fruitful, but also point to  
30 the need for increased intensive intervention services for youth who wish to exit  
31 gangs. Another gap has been identified by this group is culturally competent  
32 mental health services that can adequately respond to the needs of the youth,  
33 particularly with regard to trauma. This group has committed to receiving training  
34 and working together to increase the network of services. We've also enhanced  
35 the department's information and referral line, to provide supports to families and  
36 community members who are concerned that their child or someone they know  
37 may be involved in gangs. Our most immediate steps, next steps, include the  
38 actual opening of the Youth Opportunity Center. And we're looking at late  
39 November, first of December, the offering of small community demonstration  
40 grants to support gang prevention, to create the mechanism to offer tattoo  
41 removal services, and we've already begun to work with one hospital relative to  
42 that. Increased community outreach and education through the use of bus  
43 placards and other materials. Ongoing participation in community events and



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1 forums and the continuing collaboration in the areas of service integration, fund-  
2 raising, training and technical assistance. We're very fortunate to have Chief  
3 Manger, who is our Chief of Police, but also the Co-Chair of the Steering  
4 Committee, who early on publicly acknowledged the importance of both  
5 intervention -- prevention intervention as well as suppression. So at this time I'm  
6 going to turn it over to Chief Manger.

7  
8 Thomas Manger,

9 Thank you, I'm Tom Manger, I'm the Chief of Police in Montgomery County and  
10 as my colleague, Carolyn, said we're very pleased to be able to provide you an  
11 update on the progress being made by the task force and I will tell you that we  
12 are -- I think really hitting our stride. It took a while to get started for a number of  
13 reasons, but now that we have formed our work groups, now that we have our  
14 Youth Violence Prevention Coordinator on board, have our Youth Opportunity  
15 Center almost open, I really think that we're going to see progress by leaps and  
16 bounds. There are a number of -- each work group, and you're going to hear  
17 from the leaders of those work groups, is making progress on the 80  
18 recommendations. We -- some of the recommendations were very similar, some  
19 of the recommendations -- but clearly all of the recommendations could be  
20 categorized we felt in three separate areas. And you're going to hear how those  
21 work groups are making progress on those recommendations. Thank you all  
22 very much for having the young people in here. You know, all of us have been in  
23 town meetings and other forums where we've heard from young people over the  
24 last year or more and there are clear themes that have emerged. And we hear  
25 each time we listen to these kids, about the need for strong family support, the  
26 need for that feeling of support from their peers, addressing a sense of isolation  
27 from many of the new immigrants to this country. And as we are identifying  
28 some of the services that are out into the community being provided by the  
29 nonprofit, by the faith community and by government entities, I think we're  
30 starting to see some programs that, in my view, are ideally suited to addressing a  
31 number of these themes. And we talk about Identity and I'm telling you can't  
32 think of another program than Identity, but Identity is not free. It comes at a cost.  
33 It requires staffing and it does a wonderful job for the kids that can get there and  
34 they have the capacity to serve. The Police Athletic League, I think runs a close  
35 second, if not neck and neck with Identity in terms of taking kids from a  
36 neighborhood where they would be very much at risk of falling into either gangs  
37 or certainly some unhealthy behaviors, if not for the Police Athletic League. And  
38 -- but again, it comes at a cost, it requires staffing. I think if we could duplicate  
39 those types of programs, duplicate either those programs or programs of that  
40 type in key locations throughout this County, we could just serve, you know, we  
41 could multiply the number of kids that we're serving by two, three, four, five times.  
42 But again, it comes at a cost and it's a -- it's a tough decision as to what  
43 investment we can make. All of us know it's worth a huge investment on the part



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1 of the County and it's just a matter of identifying how much we can do and there's  
2 going to be a lot of recommendations that come out of -- or a lot of work that  
3 comes out of the work groups that hopefully will not have a huge price tag  
4 associated with it. But I will tell you as I have said many, many times before, the  
5 way we're going to solve the gang problem is through prevention activities. We  
6 cannot - - as much as my agency focuses on the law enforcement aspect of this,  
7 we cannot lock our way up out of this problem and we need to stop kids from  
8 wanting or joining gangs in the first place. We have to provide healthy  
9 alternatives. We have evidence of a number of wonderful programs and it's just  
10 a matter of seeing what we can do to add to those, you know, supplement those  
11 programs, expand them, both from the government and encourage the nonprofit  
12 community to expand those kinds of programs to try and get more kids because  
13 there are plenty of them out there that don't live in the neighborhoods where the  
14 programs are or don't know about them. So, we're aware of that problem. We're  
15 going to work as best we can and I'm sure that we can count on the -- on the  
16 support of the Council to help us when we identify needs that would require your  
17 support, as well.

18  
19 Council President Perez,  
20 Luis, did you want to offer your -- we have a number of lights on, but I thought I'd  
21 hear from the government folks first. And then we'll turn it over for questions.  
22 Welcome aboard again.

23  
24 Luis Cardona,  
25 Good morning. First of all, I'd like to take this opportunity to thank the Creator for  
26 providing me with the opportunity to be here amongst all of you this morning. I  
27 want to thank all of the members of the County Council and the Montgomery  
28 County residents for having me here. I'd also like to thank County Executive  
29 Doug Duncan, Secretary Carolyn Colvin from the Department of Health and  
30 Human Services, Police Chief Manger for believing in my leadership and having  
31 the faith and vision to provide me with the opportunity to help make a difference  
32 in our current efforts in Montgomery County to help reduce gang participation,  
33 gang violence. And it's become very clear to me that they, along with all the  
34 other members of the Steering Committee are truly committed to the  
35 implementation of a solution-based approach to gang violence that includes  
36 prevention, intervention, and suppression. Having someone like me in this role is  
37 important to youth that are in gangs and eventually want to get out. We often tell  
38 youth to get out of gang life without providing them with the model for what that  
39 process looks like. Now they have an example, someone that was in and is now  
40 doing something to help uplift the community and do his part to make the  
41 community a better place for our future generations and at the same time install  
42 hope for those individuals that want to get out of gang life. For the past 13 years,  
43 I have been on a healing journey, a pioneer in the field of gang prevention and



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1 intervention, working directly with gang members to do my part to give back to  
2 the community that at one point in my life I helped destroy, as well as to do my  
3 part to make it a better place. Most people know that I'm a former gang member  
4 and ex-offender whose life took a tremendous turn after being shot five times and  
5 then losing my best friend after being gunned down within the same year 14  
6 years ago. At my friend's funeral, his mother begged me not to retaliate and to  
7 instead channel my pain into helping other youth to not make the same mistakes  
8 I made in life. Hence, I dedicate all my work to all the brothers I grew up that are  
9 no longer here. I have buried a total of 15 close friends as a result of the  
10 violence. As well as buried 10 young men that were killed as a part of the  
11 badness that the gang life brings here in our region. And I have more than 30  
12 friends in youth that I have worked with that will never see the streets because of  
13 incarcerations and the choices that I made. Like many of the youth that spoke  
14 earlier, I continue to go through my healing process to deal with Post Traumatic  
15 Stress Syndrome Type II. As a result of 4 homicides that took place in D.C. two  
16 years ago, I hope to establish a partnership with community-based organizations,  
17 the churches, the Police Department, and other stakeholders to develop what is  
18 now called the Gang Intervention Partnership. As a close adviser to Chief  
19 Ramsey of the Metropolitan Police Department, we worked to establish a  
20 successful model for prevention, intervention, and suppression that has  
21 contributed to D.C. not having one single gang-related homicide in that  
22 community since its implementation. The success of that model is not based on  
23 the arrests that were made, but instead on the prevention of gang crimes. I was  
24 able to work with police officers to develop key relationships with gang members  
25 in the community who could feel the pulse of the community. I pray and hope we  
26 can do the same here in Montgomery County and I truly believe we can do it  
27 because of the hard work that was done throughout the development of the  
28 County Task Force Report as well as all the great work of the stakeholders. The  
29 youth from a recent youth focus group made it clear how important the Youth  
30 Opportunity Center will be to provide a community support system for youth  
31 impacted by gangs and gang life. The Youth Opportunity Center is currently the  
32 primary priority for the Steering Committee in terms of getting services there as  
33 soon as possible. We recently released an RFP for community-based  
34 organizations to provide services to gang involved youth at the Youth Opportunity  
35 Center. One of the important components of the RPF is that service providers  
36 will also be offered cutting edge training to strengthen their current services and  
37 build capacity to work with gang- involved youth. The beauty of the Youth  
38 Opportunity Center is the partnership with Prince George's County that will  
39 further strengthen our bi-county coordination efforts. As we all know this is a  
40 very strong regional issue. I recently met with Mike Butler, my counterpart in  
41 Prince George's County to discuss our joint efforts. In addition to the Youth  
42 Opportunity Center, the following are other areas of priority for the Steering  
43 Committee. The continued coordination of the County's overall gang prevention



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1 strategy. This includes a solution-oriented approach to educate County residents  
2 and institutions about the gangs as current education efforts are fragmented and  
3 only provide one aspect of the problem. Strategic coordination will help to create  
4 a more collaborative use of available funding as most of our current efforts are  
5 fragmented, duplicative, and disjointed. The development of a Countywide web  
6 site on the work of the task force will better help our coordination efforts, as well.  
7 The establishment of a multidisciplinary team of agencies and other stakeholders  
8 to prevent youth and families from falling through the cracks is also of utmost  
9 important. While I've only been here at the Department of Health and Human  
10 Services for two weeks now, I have come across several cases which  
11 demonstrate our need to improve coordination as it relates to all of us, DHHS,  
12 Montgomery County Public Schools, community-based organizations and other  
13 stakeholders that serve our County's residents. With the support and work of this  
14 team, I hope to explore and develop model programs, such as a diversion  
15 program that would help individuals to get out of gangs by offering services such  
16 as tattoo removal, safe haven housing to relocate if necessary, and not just job  
17 opportunities, but the resources to help them create their own businesses, as  
18 well as a partnership of our local hospitals where we could train emergency room  
19 physicians to identify individuals in need of wrap-around services that may have  
20 been the victims of gang violence. We'd also like to improve our outreach efforts  
21 to other County stakeholders that serve the diverse populations that are affected  
22 by gangs. Let me be very clear this is not an issue that only affects the Latino  
23 community in the County, it affects all segments of our diverse community here in  
24 the County. Recently, I spoke at the Black Legislative Caucus in Annapolis to  
25 discuss the needs to address gangs in the African-American community in the  
26 County. I also participated in the town hall meeting in Takoma Park to focus on  
27 the gang issue and the importance of involving all segments of the community to  
28 effectively address the County's gang issue. Upon meeting with key leadership  
29 from other communities in Montgomery County -- and I definitely look to the  
30 support of the County Council in helping me do this -- I also plan to hold  
31 additional community forums, specifically in those communities affected by gang  
32 violence to continue assessing any additional needs that may have been omitted  
33 from the task force report. In conclusion, yesterday I read a story in the "L.A.  
34 Times" that spoke about gangs. It spoke volumes of where we are in terms of  
35 failing to strategically deal with the gang issue throughout this country. It is my  
36 belief that our nation is looking for direction on how we can effectively address  
37 the gang issue and I believe if we continue to support the efforts of the task force  
38 and steering committee and all the involved stakeholders, we can potentially  
39 create the framework for the reduction which has developed in other jurisdictions  
40 where gangs are deeply entrenched in those communities. It is my experience  
41 that the services and supports that help young people be successful in the  
42 community and not participate in gang crime are those that provide an outlet for  
43 their talents and interests. They are never judgmental. They nourish the spiritual



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1 dimensions of youth and their families and they involve all segments of our  
2 community. We must, and I emphasize must, address the gang issue utilizing a  
3 broad public health perspective. Residents of Montgomery County are counting  
4 us on to address this issue and we have the obligation to do so, starting with me.  
5 Thank you.

6  
7 Council President Perez,  
8 Henry?

9  
10 Henry Montes,

11 Good morning -- well, good afternoon. I'm Henry Montes, I'm the Co- chair of the  
12 Community Action Task Group of the Montgomery County Gang Prevention  
13 Steering Committee and my fellow Co-chair is Kate Garvey, who heads up the  
14 agency for the children and families. And it's my privilege to be here and talk to  
15 you about what we are going to do and what we have done to date with regard to  
16 the Community Action Task Group activities. The task group members represent  
17 diverse and pertinent perspectives in working and serving youth development  
18 needs. There's two concepts in there that are important. One is that this is a  
19 community-oriented activity and it has to draw from the community and that's all  
20 segments of the community and I will read you the -- where our members are  
21 from on that task group. And the other is focusing on youth from the positive  
22 nature of what they can contribute to our society by talking about youth  
23 development needs and although we do have the title -- the label, if you will,  
24 Gang Prevention, I think what we want to do is develop our youth so that they  
25 have all of the advantages and opportunities that we all want them to have. In  
26 terms of the organization of the task group's organizational membership, we have  
27 folks from business, we have representatives from the Hispanic Chamber of  
28 Commerce, from the Department of Economic Development, and we also have  
29 folks from the Montgomery County Public Schools and the representation from  
30 the schools, we intentionally asked for each level of representation from the  
31 school. So, we have a board member, we have a assistant superintendent and  
32 we have a person that's working in the [ESOL] program. So that we can get a  
33 variety of perspectives of that, if you will, bureaucracy, in terms of what it takes to  
34 move an agenda. We also, obviously, have our Department of Health and  
35 Services and the community is well-represented, I think, in terms of having the  
36 Chairs of the Latin America Advisory Committee, myself, the African-American  
37 Advisory Committee and the Asian-American Advisory Committee so that we get  
38 the variety of perspectives needed. We also have the Department of Recreation  
39 and the Collaboration Council represented. And in the faith community, we are --  
40 our members include the community ministries of Montgomery County as well as  
41 the Archdiocese of Washington, D.C. So, you know, that's -- I believe you have in  
42 your packet somewhere, a listing of that. But I wanted to point those out  
43 because I think it's important to understand that we're only going to get at this



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1 from a variety of perspectives, it's not going to be a one-size-fits-all kind of  
2 approach. And also -- although these were the main members of our task group,  
3 we seek out other folks that can help us deal with the particular that we may be  
4 we may be working on at a given time. So that it's not exclusive, obviously, but is  
5 inclusive to bring who we need to resolve the particular issue. We went through  
6 36 recommendations that were generated that were, if you will, identified for the  
7 Community Action Task Group and through a venting process, are going to start  
8 with looking at three. And those three are really the ones that deal around the  
9 core concept of after-school activity. So, after-school is not a place, after-school  
10 is a time period. So that the concept is one that it's not in the school necessarily  
11 where things happen after-school, but in the community with the school as part of  
12 that community. One of the recommendations talks about expanding and  
13 enhancing those types of programs for opportunities for them to be safe and for  
14 them to grow in their social skills. And I think that that's one of the dimensions  
15 that's important, if you will, that circles the concept of afterschool programs. Also,  
16 we're talking about comprehensive community and school-based programs and  
17 we're talking about funding resources such as job training. And that's the  
18 connections that we want to make with our business community as not only  
19 possible employers, but also as mentors. And so the guiding principle in this  
20 initial round for us is looking at this through the effective use of partnerships, and  
21 so that will be how we will look to lay the groundwork for that. I think it's  
22 important for our operation as a task group that each member of the task group,  
23 and we explicitly went through this, discussed this at our meeting on October  
24 13th, that each member of the task group take on the responsibility for what  
25 aspect of the activity that we decide we're going to do, they're going to be  
26 involved in. So, it's not just a matter of giving it to something else. We are  
27 pledging to have each of our members take on that particular part that's pertinent  
28 for them. And then when we find that maybe we have three-quarters of the pie  
29 covered, maybe that other quarter is one we have to come back to you with and  
30 say we need this extra, well, this final piece in order to make it whole. That's kind  
31 of the approach we want to take with this because, as you've heard, a lot of the  
32 activity going on is being done by few, very well-intentioned, very well-done  
33 programs. This would give us -- we hope this approach would give us an  
34 opportunity to ferret out where there may need to be greater concentration and  
35 maybe a more systematized way to get at where those needs are. So, I -- I'm  
36 looking forward to working with our task group and with you in the future and that  
37 we can move an agenda that will be a development and growth of our youth in  
38 Montgomery County. Thank you.

39  
40 Council President Perez,  
41 Do you want to...Chief Walker?

42  
43 Dee Walker,



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1 Good afternoon, I'm Dee Walker, the Chair of the Information Management Work  
2 Group and Cheryl-Lynn Jenkins, from the Collaboration Council is here. She's  
3 Co-chair. I should identify myself as the Co-chair, I apologize. She's doing most  
4 of the work, frankly. Again, thank you very much for the opportunity to come  
5 today. I wanted to just briefly go over some of the goals and priorities of this  
6 particular work group and discuss with you the membership. Right now our  
7 membership consists of mostly Police Department employees. Primarily we're  
8 looking at County infrastructure with regard to information gathering and  
9 management. And frankly, the doors haven't been beaten down to join this  
10 group. We're dealing with County systems and I've relied heavily on the  
11 expertise that's in-house, though I would welcome any other participation. Right  
12 now we are working with the schools and our County Division of Corrections to  
13 address the initial priorities which, from the packet, are recommendation 04,  
14 which identified types of data to be collected and policies surrounding that data.  
15 P19, which deals with the creation and maintenance of an information system  
16 that tracks data related to after-school activities and that's work that was already  
17 in progress by the Collaboration Council. They always seem to be ahead of the  
18 curve on some of this stuff. And also to design and implement a comprehensive  
19 community awareness program, which you heard from Director Colvin earlier, will  
20 deal with a variety of strategies for driving information out. We also hear from  
21 our youth today about the importance of rendering that information available to  
22 students so they know where to turn for assistance. There are some issues  
23 we've dealt with historically on some of these other programs that we've worked  
24 on with regard to victim services. We've seen a continuing challenges with  
25 regard to coordination, collaboration, consistency of reporting and I'm really glad  
26 Mr. Subin not here today, 'cause I will say the other "C" word, which is  
27 confidentiality. I know that these types of issues present special challenges to  
28 whatever stakeholder might be at the table. To try to breakdown the barriers will  
29 be a key component of the work of this group and if not, breakdown the barriers,  
30 at least seek in ways to negotiate them. So we have a lot of work to do, I won't  
31 take up much more of your time, but I think that we're looking right now, primarily  
32 to leverage existing infrastructure, we know there's a lot of pressure on the  
33 different funding initiatives and we think that with the development, the  
34 introduction of E-Justice within the state of Maryland and within Montgomery  
35 County that we have a unique opportunity and the timing is good for us on the  
36 work of this particular group. So, thank you for that chance to speak.

37  
38 Council President Perez,  
39 Okay, Director Clarke.

40  
41 Ed Clarke,  
42 Good afternoon, Mr. President and members of the Council. My name is Ed  
43 Clarke. I'm the Director of Montgomery County Public School's Department of



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1 School Safety Security. I've been asked by our Dr. Frieda Lacey, our Deputy  
2 Superintendent to be one of the co-chairs for the Community Awareness Task  
3 Group. Montgomery County Public Schools is pleased to be an active participant  
4 in this area in terms of our charge, which is to certainly implement the  
5 recommendations from the County's Gang Prevention Task Force that are  
6 related to outreach, education, training, and web-based information. Certainly to  
7 do that, we need the assistance of co-chairs. And I'm very fortunate to have two  
8 outstanding gentlemen who will be co-chairpersons of our Community  
9 Awareness Task Group. The first individual is Dr. Kevin Maxwell, who is our  
10 community superintendent for the Gaithersburg, Watkinsville, Macgruder and  
11 Damascus clusters. And Dr. Maxwell's also served as a high school and middle  
12 school principal in our neighboring Prince George's County Public School  
13 system. Our second co-chair is the Reverend George Hackey, who is the current  
14 minister of the United Methodist Church In Sandy Spring, Maryland. As many of  
15 you know, Reverend Hackey is a former member of the Montgomery County  
16 Police Department who spent his entire career -- the majority of his career in  
17 community outreach and working with at- risk children and students who have  
18 been in trouble. So we're very, very excited about having Reverend Hackey join  
19 our team. Certainly that was a -- I guess an area that you wanted us to expand  
20 to include the faith community in terms of representation on our at-large task  
21 force. As you review the members of our task force, I think you will see that we  
22 have a diverse group of stakeholders who bring certainly experience and  
23 opportunity to help us fulfill our charge of community education and outreach.  
24 Certainly just to mention a few of our partners, we continue to have an excellent  
25 relationship with Chief Manger and members of the Montgomery County Police  
26 Department, our State's Attorney's office, our Recreation Department, public  
27 libraries, as we've mentioned the faith community. Certainly our Rockville Youth  
28 and Family Services, Central Familia, the YMCA, and of course our Mental  
29 Health Association. One thing that we're looking to do is to also expand that  
30 membership as you heard from the other task force leaders here today.  
31 Certainly we'd like to include members of the business community as well as the  
32 Chamber of Commerce, but I think having listened to our youth today, we also  
33 have to find a way to have our youth present on our committee, as well, in had  
34 terms of not only educating the community at large, but how we can do a better  
35 job of educating our youth to the ills of violence and gang activity. So, we will be  
36 working hard to engage our youth there. We will be meeting later this month to  
37 hold our first meeting, but we have been busy behind the scenes in trying to get  
38 prepared. I'd like to share with you some of the things we've done prior to  
39 holding our first meeting. Montgomery County Public Schools participates with  
40 the United States Department of Education. We meet once a year with the 20  
41 largest school districts and talk about safety security issues. I want to reassure  
42 the members of the Council that this is not a problem unique to our community.  
43 And every one of those largest school districts in the country, they're dealing with



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1 very similar issues. So, we always have those discussions, how we can do a  
2 better job of dealing with gangs and youth violence within our school community.  
3 We have also reached out to the Northern Virginia Regional Gang Prevention  
4 work group that has been established. Chief Manger is certainly familiar with that  
5 group. In that effort, we have spoken to Chief Joe Price, as many of you  
6 remember was a major with our Police Department, currently Chief of Leesburg  
7 and Chief Summers of Herndon. We're looking to see how that group and that  
8 task force has embarked on the challenge of reaching out to the communities in  
9 northern Virginia and throughout Virginia. We've met with the gang recognition  
10 intervention team coordinator for Leesburg and, again, we'll be partnering with  
11 them to see best practices and strategies that they've utilized to increase  
12 awareness to their community. On October 27th, last Thursday, I had the  
13 fortunate opportunity to be a member in the White House Conference on helping  
14 America's youth, hosted by our first lady, Ms. Bush. Throughout that day of  
15 training and awareness and understanding, we heard from many young people  
16 involved in violence and gang activities. But more importantly, the federal  
17 government is launching a web-based initiative where they have identified best  
18 practices and based on evidence-based programs that we will be able to tap into  
19 in our quest of community education. So, we're excited about our challenge. We  
20 will be working with Mr. Montes and his team, as well as Chief Walker, to really  
21 do the job of educating our community, all members of our community, to the  
22 issues of gang activity and youth violence. Mr. Don Crestor, our Chief Academic  
23 Performance Officer is here today to answer any questions about our training  
24 initiatives or other questions that may be posed for the school system. But we're  
25 delighted to participate in this important task. Thank you.

26  
27 Council President Perez,  
28 Mr. Knapp

29  
30 Councilmember Knapp,  
31 Thank you all, I appreciate it. It sounds like we're moving things in the right  
32 direction. Just a couple of comments. When we had our discussion back in the -  
33 - I think it was the early summer, we had a discussion about areas of the County  
34 where our kids were more at risk. That's not a great way to describe it, I  
35 recognize, but that's how it was presented. There was follow-up information as  
36 to roughly how many students or youth have lived in the areas. I think it was the  
37 Collaboration Council that put that information together. And, Henry, in kind of  
38 your discussion as to how do we strategize or put pieces together, it seemed that  
39 from that discussion that there's already kind of a map that outlines where we  
40 ought to focusing our attention. And to some extent we know programs that are  
41 already working and I don't know if we've seen this yet or not, but that there was  
42 a -- I believe it was Mr. Praisner or Mr. Leventhal had requested an overview of  
43 after-school programs...



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1  
2 Councilmember Leventhal,  
3 OLO is doing that, it's focused on middle schools in the high-risk areas. I think  
4 we will get it when, in the Spring?

5  
6 Councilmember Praisner,  
7 I'm not sure.

8  
9 Councilmember Leventhal,  
10 Yeah, but it's on OLO's work program for the year.

11  
12 Council President Perez,  
13 Something else going on at the OLO.

14  
15 Councilmember Knapp,  
16 A couple of other projects over there! But it would seem that ought to be a  
17 reasonably straightforward thing to begin to overlay as to where the programs  
18 are, where the areas are and see where the gaps are. Then it's a matter of just  
19 trying on -- then it's a -- then it's a dollars issue, as Chief Manger's indicated. So,  
20 I guess I would urge us to try to move forward and reasonably due haste to get  
21 the pieces of information overlaid because as we address our budget in the  
22 coming year, this ought to be something that we ought to be looking at. I know  
23 many of my colleagues have stood up in front of a lot of groups and  
24 organizations, as have I, where people are saying "Okay, we've all read about  
25 this, we know it's out there, the pieces are here, what are we doing?" And I, you  
26 know, so I asked, I guess, for comments on that first, and I've got a couple of  
27 other things that tie into a couple Council-kind of programs .

28  
29 Cheryl-Lynn Jenkins,  
30 I'm Cheryl-Lynn Jenkins, I'm from the Montgomery County Collaboration Council  
31 and I had participated in putting the map together. And I kind of wanted to  
32 update you on where we were with that. That we did provide the actual GIS  
33 layers that were used to create that map for the schools, to be able to look at that  
34 for the middle schools and all the assessments. So we are able to coordinate  
35 those two things. So I just wanted to let you know on that.

36  
37 Councilmember Knapp,  
38 Good, no I thought we'd seen that -- that it had been distributed. Thank you very  
39 much for doing that. And hopefully that's a tool that's workable. It seems like  
40 that's a reasonably straightforward way to approach it. I don't know, perhaps I'm  
41 oversimplifying it.

42  
43 Unidentified,

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1 [laughter]

2  
3 Councilmember Knapp,

4 Okay. The second piece is -- and earlier this morning we had a discussion about  
5 our grants programs and I know there's some reluctance to think about setting  
6 priorities necessarily as to what our -- how we're going to structure our grants.

7 By the same token, we're going to have to come up with the resources from  
8 some place. So we're either going to reprioritize other County programs or we're  
9 going to take that money that we think we're going to set aside for grants and say  
10 that this is an important issue. And this would seem to be something that would  
11 rank reasonably high towards the top of what that list ought to look like. I guess  
12 the question I would ask for -- I'm not sure which sub-committee would be the  
13 appropriate one -- is to look at some kind of criteria so that, one, we ought to be  
14 encouraging those community-based organizations that are currently doing  
15 things or could be doing things, especially in our more at-risk communities, to  
16 make sure they're applying for our grants programs. But second, if through one  
17 of the task force or working groups that you could provide with us some criteria  
18 that we could be looking at to assess the types of things that we know need to be  
19 existing in these communities and how we can look at different grant potential  
20 organizations or grant proposals they're coming forward with so we can look at  
21 them and have a sense of does this program meet the criteria or meet the needs  
22 of what we're looking for in specific communities. Looking at things like  
23 geography, looking at types of programs. Part of what we get from OLO, I think,  
24 will help us, at least from a middle school perspective, but I think we need to look  
25 to you to try and give us a sense of what are best practices out there so that we  
26 can rank one versus -- rank may not be the right word, but at least be able to  
27 assess one versus another so we know which way we're going. And I guess the  
28 last thing I would ask is -- is just a question. In the conversations I've had, and I  
29 was struck because you said this, Henry, it that "community-oriented activity."

30 The thing that seems tough -- this is a great conversation, but this is way up  
31 here. This is a real macro-level thing on something that in many respects is a  
32 very community-oriented discussion. And I'm still struggling with how do we  
33 meet the specific needs of our local communities, a Montgomery Village, a  
34 Wheaton, and do it from this level as opposed to trying to really encourage things  
35 to percolate up from the bottom. And I didn't get a good sense of how, in the task  
36 force, that's being addressed. It still comes across like it's a countywide task  
37 force and I don't know how we get the percolation of the community activities  
38 flowing up. 'Cause it seems like that will be dealt with and our job is to be sure  
39 we have some base set of criteria and then we kind of funnel the money in there  
40 so they can do the job. But I don't know -- thoughts?

41  
42 Henry Montes,



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1 Well, I'll just kind of follow up on some of the discussion we had at our first  
2 meeting. And that is the real commitment of all of the various community-based  
3 organizations to be part of the venture we've been talking about in terms of  
4 afterschool, comprehensive kinds of programs and job training and so on. I think  
5 the idea is, in the specifics, is to engage the various groups that I mentioned that  
6 are part of this task group. In terms of what can they do vis-à-vis a particular  
7 activity that we, as a group say, this is the kind of thing we think needs to be  
8 done, we'll use this program model in this particular location. Now, which of us  
9 can offer something to get that done? Now, if we can complete that with  
10 everyone around the table and say if we offer these kinds of resources to get that  
11 done, then we can go ahead with it. If we find there's a problem, there's a lack of  
12 resource for one reason or another, then we can at least know what level we  
13 need to request for more resources at that particular -- for that particular thing.  
14 I'm using a generalities, because, you know, we have to respect the group  
15 getting together and really coming to grips with those specifics in terms of what  
16 are we going to do. But that I think is an agreed upon approach that the task  
17 group has come to. Now, how we feel in that skeleton with the flesh of specific  
18 activities and so on, is what we will be doing in the near future in terms of getting  
19 together.

20  
21 Councilmember Knapp,

22 Okay, I know there are other communities, the Council President talked about  
23 programs he's aware of in Boston. I know other cities that have done a number  
24 of things. In those communities, how quickly did they move to enact programs, I  
25 mean large-scale activities? Did they set themselves a timeline? Did they -- how  
26 quickly did they move to address this? From the time they first started to meet?  
27 There are specific programs that were put in place and so presumably they  
28 started some activity of discussion.

29  
30 Luis Cardona,

31 Well, Councilmember, one of the -- things that happened in particular in Boston is  
32 that they got to a point where they -- it was -- just things were really bad and out  
33 of control. And fortunately those of us here in Montgomery County are in a  
34 position now to do a lot of proactive things and don't have to wait to get to that  
35 point.

36  
37 Councilmember Knapp,

38 Uh-huh.

39  
40 Luis Cardona,

41 Reverend Eugene Rivers, who was instrumental in coordinating a lot of the  
42 things that went on up there in Boston, along with others, essentially just got sick  
43 and tired of burying young people. So, it -- it took some time and a lot of



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1    heartbreak and tears for them to finally come together and say "This is what we  
2    have to do." And one of the important things that I remember that happened in  
3    that process is that the organizations that traditionally served those communities  
4    were willing to let go of territorial issues or issues in terms of, you know, we do  
5    this, you do that and say, "Okay, how can we stop burying any more kids?" And  
6    hence, for the reason -- my coordination role is very important to that. Because,  
7    you know, what we're talking about is how can we strengthen our coordinative  
8    efforts here? I mentioned earlier the fact that there is fragmentation in the  
9    County currently. There is some overlap. There is things that are sort of  
10   duplicative. But one of the wonderful things that I learned last week, thanks to  
11   Kate Garvey, who is here, we had a meeting with our Provider Council which  
12   pretty much everyone was really open to saying, "Hey, we really want to work  
13   together, we want to come up with a model that is relevant to Montgomery  
14   County." And we really don't have to go outside the Montgomery County area.  
15   There's an abundance of resources that are already here. We're very  
16   knowledgeable of what's going on. We could use some of that, you know,  
17   advice, but to an extent, you know, how do we coordinate these things? One of  
18   the things that made very happy, is that I asked for a show of hands, how many  
19   stakeholders at the table were committed and invested in building their capacity  
20   to better serve the gang issue, better serve the diverse communities and  
21   everyone was in full agreement. You know? Of course, money is something that  
22   everyone can use, always!

23  
24   Unidentified,  
25   [laughter]

26  
27   Luis Cardona,  
28   We all know that. But what I was happy to learn last week is that the issue was  
29   not just about the resources in terms of money, but it was also about how can we  
30   strengthen and build our capacity and my experience in Washington, D.C. has  
31   been like that. My experience in other parts of the country, throughout Central  
32   America and Mexico has been the same thing. In the long run, when it comes  
33   down to it, unfortunately, we would like to start here in terms of the resources, but  
34   what you're actually going to get is something totally different. So you have to  
35   make a strategic use of what resources you have available to you and the only  
36   matter to do that is for there to be a uniform coordination effort where everyone  
37   knows exactly what's going on. Everyone is, you know, speaking in the same  
38   language and the message is universal from those of us in the County Council to  
39   those of us in the government to all the other community stakeholders.

40  
41   Councilmember Knapp,  
42   Now, I appreciate your remarks and I guess from the conversation I've have had  
43   and from the panel that proceeded you, I don't think we have one minute to lose.

56

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1 I don't want to get sick and tired of burying kids. I don't want us to get to that  
2 point in Montgomery County. You've heard some very poignant things from the  
3 kids in front of us, most of us have all similar stories from other community  
4 groups that we've sat down with and kids we've pulled aside and talked about  
5 that with. One of the things that has frustrated me in the last few years is that we  
6 can generally fill as much time and conversation as we can get people in a room.  
7 And the difficulty is to establish deadlines and timelines to actually accomplish  
8 things. And we saw five kids that if we don't high hurry, they're going to be going  
9 down paths and we can identify 50 more, or 150 more. And I guess I would urge  
10 us to identify a timeline, a specific deadline to do specific things. And you guys  
11 are the experts, but if we don't do that, I have no doubt we could be back here in  
12 a year, having a similar conversation, we will have made some progress, we will  
13 have a nice checklist of things we will have done, but we won't have taken the  
14 broad -- we won't have enacted the broader vision. And our challenge is now to  
15 do that, I think, as quickly as we can, because we don't want to get to the point  
16 that you described that they had in Boston. And so I look to you guys to help us  
17 figure out what the right timeline is, but I think it needs to be soon. I don't know if  
18 that means it's nine months, six months, ten months, but we need to come up  
19 with very clear, actual items, quickly so that we can start to address it. We know  
20 what our budget cycle is, it's not going to be just money, but that's certainly going  
21 to be a part of it. But we need to know what we're going to fund with the dollars.  
22 And so that's up to you guys to figure out what are the programs that we need to  
23 be funding. But everyday we don't do it is one more kid that we could have  
24 gotten to that we're not going to get to. And you know it -- you're much more  
25 poignant than anything I could -- that anything I could ever say as to what the  
26 issues are. I just don't want us to let the kids down. We're in it for them, it's all  
27 about them, they need to tell us what they need, but we've got to hear them and  
28 then we've got to respond. And I just want us to pick a real good timeline and a  
29 deadline to meet some of those things. and we're not going to hit all the  
30 deadlines. But if we're not working toward them, I know it's going to take a long  
31 time to get someplace. Thank you.

32  
33 Council President Perez,  
34 Miss Praisner?

35  
36 Councilmember Praisner,  
37 Well, I want to thank you, too, but I can't say that I am totally comfortable that we  
38 are going to get any further along than we have in the past on a variety of issues,  
39 because of exactly the points that Mr. Cardona mentioned. Which is that we  
40 don't have strategic coordination, we have significant fragmentation and we don't  
41 have and haven't demonstrated the will to follow through, sometimes saying no to  
42 some group and not just adding on. I drive by the Good Hope Rec Center every  
43 day and see it closed too much because it's only open when the PAL program is



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1 operating there. We have resources that we're not using appropriately. We have  
2 funds that could be better managed and directed and we can't sit here anymore  
3 and say that class size reduction is a gang prevention program at the school  
4 system. And, unfortunately, I've sat here when we tried to do similar things for  
5 Early Childhood. Where we created a position that had requirements and  
6 responsibilities for coordination with the school system and coordination with the  
7 Department of Health and Human Services. That position no longer exists  
8 because it didn't work and it didn't work because the leadership at the school  
9 system and the leadership in the department didn't make it work. We're  
10 committed to it working. So, sir, I think that you have the capacity to tell it like it  
11 is when you see it isn't working. You've demonstrated that by your career and  
12 your experience in the past. I hope you will tell us like it is when it isn't working.  
13 When we spend money to do good things but not necessarily in the right way.  
14 When we have fragmented and a noncoordinated programs, which is what  
15 Montgomery County is traditionally done and had So, I think if nothing else,  
16 because of the fact that this is so critical from a lifesaving perspective, we either  
17 change the culture in Montgomery County or we fail and we fail abysmally. And  
18 we can spend a lot of money failing because we've done that in the past, too.  
19 This is a critical issue for all of us and it's a critical issue especially for  
20 government because there are a whole host of government people on these  
21 committees and task forces. I think it's true that we need the business in the  
22 broader committee involved in this. But these folks, with all due respect are  
23 going to meetings on their paycheck time. It's the business community and the  
24 kids and the nonprofit community -- may be on their paycheck time, too, but it's  
25 from a different perspective. We have got to change the culture in Montgomery  
26 County, where we get piecemeal, squeaky wheel requests for funding, we're we  
27 create check off lists and don't use our well-developed GIS and mapping  
28 information to make hard decisions. We've got a good GIS program. We've got  
29 the capacity to have the information pulled in and then do something about it.  
30 But I haven't -- I wish I had the confidence that I might have had several years  
31 ago that we can pull this off. But having worked so hard on the Early Childhood  
32 issues and seeing what happened to that initiative -- not on your watch, Carolyn -  
33 - but just demonstrates for me -- you know, my favorite definition is of -- of  
34 collaboration is a -- a unholy act by nonconsenting adults, and you can use any  
35 adjectives or words you want to use, but it's bringing nonconsenting adults to the  
36 table. And unless we overcome that, by the force of this Council, by the force of  
37 this County Executive, by the force of the Board of Education, which are the  
38 policymakers for this school system, unless we take control of that and -- and use  
39 the force of those policymakers and have folks coming forward like the kids this  
40 morning, who may have overcome whatever fears they had to tell it like it really  
41 is. Unless we do that, we will spend lots of money and we will, perhaps, never  
42 get to Boston, thank God if we don't, but we aren't necessarily going to solve the  
43 problem, either. It will be replaced by the next priority that the public gets excited



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1 about. So, we have a lot of work to do. And I welcome you to the challenge! And  
2 there's a lot of confidence that folks have in you. I just hope you will be as  
3 honest and open with us and with the community as you can be. Thank you.

4  
5 Council President Perez,  
6 Miss Floreen?

7  
8 Councilmember Floreen,  
9 Thank you. I guess I take sort of the glass is half full approach to this. Certainly  
10 last year when we were confronted with a budget that had a lot of gang  
11 prevention initiatives, including the class size reduction statement, we had a lot of  
12 concerns and I think it is very good that we've gotten people together to talk  
13 about the fragmentation issues and the need for a coordinated program. So, in  
14 my view that is a good thing, I do share Mr. Knapp's concern in terms of need to  
15 now get on with it. And I wanted to ask the Chief about the PAL program. How  
16 is -- is that funded through your budget, or how is that funded? You identified  
17 two best programs that you see out there, Identity and the PAL program. Identity  
18 is a nonprofit and I'm sure we will continue to hear from them through the budget  
19 cycle. Clearly your endorsement of that is a very significant plug for what they're  
20 doing, which government really can't do. And I think we need to continue to work  
21 with them to see how -- what other kinds of things, whatever areas they can  
22 penetrate. PAL program, can you talk a little bit about that?

23  
24 Thomas Manger,  
25 The Police Athletic League is funded through the Police Department's budget. It  
26 has either four or five officers assigned full-time to it. It is a partnership with the -  
27 - with Recreation, having had discussions with Recreation there we could identify  
28 other locations where a PAL program would work, that there is a facility that  
29 exists and an opportunity that is waiting, it is just -- it's a very staff-intensive  
30 program. And that's where I have to make the difficult decisions in that I would  
31 love to have half a dozen Pal programs throughout this County, it's just I have  
32 other competing needs in terms of crime -- you know more...

33  
34 Councilmember Floreen,  
35 How many...

36  
37 Thomas Manger,  
38 ...enforcement efforts that take away from that.

39  
40 Councilmember Floreen,  
41 Sure. How many PAL programs are there now?

42  
43 Thomas Manger,



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1 One.

2  
3 Councilmember Floreen,

4 There's just one. Well, I would urge you and the group collectively to look at  
5 recommending some priorities for funding in the coming budget, across  
6 budgetary lines, because I think if there's agreement that this is the kind of thing  
7 that we need to continue -- we need to push, that it's effective, that it's a known  
8 program with known results that are positive, it seems to me that that is at least  
9 one thing that we could support as we move forward. We can only reinvent the  
10 wheel so many times around here and we can have a lot of meetings. But the  
11 real thing is finding a system that works for kids, if this is the sort of program that  
12 people collectively agree is what we should continue to move forward on, let's do  
13 it and get a couple of things done. So, I would ask that the group take up a list of  
14 priorities, get back to us with what you think really works and get away from the  
15 competing towers of power, but focus on programs that possibly exist today that  
16 we can simply expand without creating a whole lot of new bureaucracies -- and  
17 as Ms. Praisner was alluding to -- sort of "feel good" efforts that really don't  
18 produce results. If this is working, let's do more of it. So, if we can get your help  
19 on that, I think it would be very useful to us. So, thanks for what you're doing,  
20 but, again, let's -- if we can have fewer meetings and more product, I think that  
21 would be helpful.

22  
23 Council President Perez,

24 Okay. I have a question for -- relating to some of the testimony from the Einstein  
25 juniors. What is our focus as it relates to intervention and prevention in  
26 Asian/Asian-American communities here? That hasn't been portrayed as a face  
27 of the issue, but we certainly heard loudly and clearly today about the effect on  
28 Asian-American communities. I'd like to learn more about that.

29  
30 Luis Cardona,

31 If I could allow Kate Garvey to respond to that, please.

32  
33 Council President Perez,

34 Sure.

35  
36 Kate Garvey,

37 It's fairly limited and we've been working with -- with the different groups -- Asian-  
38 American LEAD was the organization that the two youth were from. They're  
39 beginning to do more work, but in terms of programming, we're really looking at  
40 needing to see additional work done in that. Shao has been very active in  
41 encouraging additional programming but we really see that as an area where  
42 there are fewer resources that have been available.



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1 Council President Perez,

2 All right, okay. So, as it relates to, you know, where we go from here, because I  
3 do appreciate that your time is your most precious resource and we want to  
4 continue to make measurable progress. I'd like to see over the course of say the  
5 next three months, I want to hear exactly what we're going to do in that area. I  
6 would also -- and Mr. Andrews asked this question before and Director Colvin  
7 highlighted it briefly in her testimony -- we've got kids who have very serious  
8 mental health needs and I'd like to know more about what our current  
9 infrastructure is to address that. Both in MCPS, he asked the question, which I  
10 had in my notes and I appreciate you're asking it first, how many bilingual,  
11 bicultural counselors are there in MCPS? I'd like it disaggregated by middle and  
12 high school, I'd like to find out where they are, actually. And we want to make  
13 sure we have the right match there. And if we have an infrastructure deficit, then  
14 I'd like to know what the plan is going be to address that. Also, elsewhere,  
15 because MCPS is certainly not the only place where that would be a challenge.  
16 And so that was certainly something that jumped off the page at me today. We  
17 certainly learned a lot about intervention today, and Juan, would is sitting in Chief  
18 Manger's seat, certainly highlighted the rickety nature of the intervention leg of  
19 the stool. I heard you outline some very, I think promising suggestions, but I'd  
20 like -- I'd like to hear more in three months, when we come back under  
21 Councilmember Leventhal's leadership, to address the intervention challenge.  
22 That to me is the -- I've had conversations with the Juans of Montgomery County  
23 and they are all at a loss. And you know better than I, Luis, the multitude of the  
24 challenges, you know, ranging from safe harbors and tattoo removals and other  
25 things. We need to really have a plan so that when they come to the Diegos of  
26 the world we can say we can really help you in a meaningful way. I'd like to learn  
27 more about that. My final question is for the school system. And I don't think it's  
28 fair to ask you, Chief Clarke, because it's really more of a policy question. And I  
29 don't know if Don is the right person, but we're going to have a hearing in about  
30 an hour on a bill, a supplemental that I introduced, regarding the Blair Sports  
31 Academy. And that's agenda item number 20. Is Marshall still here or did he  
32 have to leave?

33  
34 Unidentified

35 He left.

36  
37 Council President Perez,

38 I think he had to leave. He knew I was asking! No. And the Blair Sports  
39 Academy was a program that was a 10-week pilot last spring and when you look  
40 at the packet, there were 389 participants. The overwhelming number of whom  
41 were either African-American or Latino. Linda is currently gathering data on -- to  
42 answer the following question, which I asked her, which is "What percentage of  
43 these kids," and I'm not just talking about the Latino and African-American kids,



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1 "were subject to the 2.0 rule, which precludes them from participating in  
2 extracurricular activities." My broader question that I would ask you to reflect on  
3 is does this -- does this policy have the unintended consequence of producing a  
4 cadre of African-American and Latino kids who have nothing to do after school?  
5 And what are we doing to address that? Because if it has the unintended  
6 consequence of they have nothing to do and we're providing them with no other  
7 alternative to remediate and get up to a 2.0, that seems like kind of asinine public  
8 policy in my judgment. Well-meaning, though it may be but it's having an  
9 unintended consequence of becoming a potential gang replenishment act. And  
10 that's not what we want to do here as a County. And I look at these demographic  
11 numbers and what I don't have yet is the question, how many of these kids were  
12 subject to the 2.0 prohibition and I'm willing to bet, without knowing it, that it's  
13 probably a fair number. And so I think it's a question that we need to put on the  
14 table and I understand the Board of Education makes education policy, but we're  
15 gonna -- we certainly deal with the effects of education policy, and so I don't  
16 know if you have studied this issue and do you have the data disaggregated by  
17 race and ethnicity of the kids who are subject to the 2.0 rule?

18  
19 Don Kress,

20 President Perez, I can't specifically to the Blair Sports Academy in terms of  
21 numbers, there shouldn't have been any students for that academy that were  
22 subject to 2.0 requirement. The Board of Education's 2.0 eligibility requirement  
23 only applies to the specific activities that are listed in the...

24  
25 Council President Perez,

26 No, no -- my question is, are -- are these people precluded from participating in  
27 other activities because of the 2.0 rule?

28  
29 Don Kress,

30 No...

31  
32 Council President Perez,

33 And my point being if it the answer is yes, then it raises the question, is it sound  
34 public policy to -- to have a stick that prevents them from doing anything without  
35 any other alternative? I can understand the underlying policy direction of wanting  
36 to make sure people have a 2.0, but we've got to provide other opportunities so  
37 that they can get back to a 2.0 and they can build self-esteem, and the outcomes  
38 noted in this are pretty darn impressive. And so that's the question I'm asking...

39  
40 Don Kress,

41 What I'm trying to answer, Mr. Perez, is that the Board policy of having a 2.0 to  
42 participate in activities does is not apply to all after-school activities. It only



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1 applies to certain after-school activities. So, the Blair Sports Academy should not  
2 have been subject to that 2.0...

3  
4 Council President Perez,  
5 Again, it...

6  
7 Linda McMillan,  
8 It was a specific alternative was not subject to it, but my understanding is that all  
9 of the stipended activities...

10  
11 Don Kress,  
12 No, not all stipended activities are subject to the 2.0. Only those stipened  
13 activities that are in the negotiated agreement...

14  
15 Linda McMillan,  
16 Yes, which are most of the sport related...

17  
18  
19 Don Kress,  
20 They're most of the interscholastic athletic, and some others, but not. but every  
21 school...

22  
23 Linda McMillan,  
24 Not everything, but...

25  
26 Don Kress,  
27 Right, but every school should have activities not subject to that 2.0 requirement.  
28 We're trying to get schools to develop more of those activities that aren't subject  
29 to the 2.0 requirement.

30  
31 Council President Perez,  
32 I mean -- very well. Let's get the list. Number one, and number two, the point I'm  
33 attempting to make here...

34  
35 Don Kress,  
36 No, I understand your point exactly. We share the same concern, we've been  
37 looking at the disaggregated...

38  
39 Council President Perez,  
40 I appreciate the policy, but if you're going to have the policy in place, what  
41 opportunities exist after school? And I will note and I'm sure you would note with  
42 great appreciation, the 90% reduction in after-school fights while the academy  
43 was operating. Those are pretty good numbers. And so my simple point is we

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1 need to have this conversation about what we're going to do with people  
2 disproportionately black and brown this conundrum, who need to have other  
3 opportunities to do things after school and do things in the summer and do things  
4 that will provide a productive road that will keep them away from the things we all  
5 want them to stay away from. And I'd like to learn more about the effect of the  
6 2.0 policy and what -- and disaggregated by race and ethnicity. That would be  
7 great, thank you.

8  
9 Don Kress,

10 I could answer one of your other questions about the bilingual counselors. I don't  
11 know how many regular guidance counselors we have who happen to be  
12 bilingual. We will find that information. We do have in our [ESOL] office though,  
13 we do have eight bilingual counselors. And they are spread across -- we  
14 realigned their responsibilities this school year to assign them to our 22  
15 secondary schools that have the highest Latino populations. So, we have those  
16 individuals that are spread across 22 of our secondary schools that are mostly in  
17 the -- in our impacted communities and have the highest Latino population. I  
18 could give you a list of those schools if you wanted me to provide that.

19  
20 Council President Perez,

21 Thank you, Don, that would be great. Okay. Well, we're a little behind schedule,  
22 but this was an important conversation to have. So, thank you, Chief Manger,  
23 Director Colvin and others for your help. I think I outlined some of the issues that  
24 we're interested in getting more information on as we move forward. We will --  
25 we will reconvene in an hour, so 1:55, and then we'll -- we'll convene at 1:15  
26 downstairs with Melody --Melanie, sorry, Melanie with an "n."





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1  
2 Council President Perez,  
3 ...agenda item number 13, so we'll start with that. Good afternoon, this is a public  
4 hearing on expedited bill, 31-05, Personnel benefits prescription drugs which  
5 would require the Office of Human Resources to offer certain prescription  
6 benefits to County employees and retired employees and generally amend the  
7 County law with respect to prescription drug benefits. Action is scheduled  
8 following today's public hearing. Before beginning your testimony, please state  
9 your name for the record. We have now -- oh, we went up from 4 to 6. Okay,  
10 Sammie Young, Bob Stewart, Matt Van Hook, Tom Israel, Eric Blumberg, and  
11 Tom McGinnis come on up.

12  
13 Unidentified  
14 [INAUDIBLE]

15  
16 Council President Perez,  
17 Sure it's all in -- you've got three minutes, so if you want to take some of that to  
18 introduce them that certainly is your prerogative.

19 Sammie Young  
20 Thank you.

21  
22 Council President Perez,  
23 Mr. Young, as soon as you're ready you may begin.

24  
25 Sammy Young,  
26 Who did you call?

27  
28 Council President Perez,  
29 Mr. Young, you're first. You have you three minutes.

30  
31 Sammie Young,  
32 My name is Sammie Young, I reside at...

33  
34 Council President Perez,  
35 If you could hit your button there. Mr. Young, could you hit your button there?  
36 There you go.

37  
38 Sammie Young,  
39 Sammie Young, I reside at 2304 Nees Lane, Silver Spring, Maryland. I'm a 29-  
40 year veteran FDA'er and I'm opposed to this particular bill. What troubles me  
41 most we have lawyers on the Council, and you call this an opinion, this is a  
42 violation of federal law. It begins with the Dotterweich Decision, way back in  
43 1943, confirmed again about 1974 in the Park Decision, which states that the



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1 shipment and so forth and interstate commerce of an adulterated, misbranded  
2 drug is illegal. And the thing that's never been told to the public here is that  
3 lawyers understand chain of custody. When the FDA says it's illegal they're  
4 saying they can't guarantee the safety of that drug that comes into the United  
5 States from Canada or any other country. This is not a opinion, this is a real law.  
6 I don't understand where you guys are coming from. I mean, where are you  
7 taking -- what road are you taking this to? The second issue that I would like to  
8 talk about. I would like to jump to the last item on my page -- my item here, and it  
9 has to do with the proposal on reimporting drugs and I state that it's  
10 discriminatory on its face and it may be racially discriminatory. The Council has  
11 elected to exempt so-called biotech drugs. The Federal Food, Drug, and  
12 Cosmetic Act defines a drug. it doesn't distinguish between a biotech drug and  
13 any other drug. The proposal essentially sets up a formulary approach and  
14 having spent 41 years in government, mostly in health care, I know that a  
15 formulary approach is a pretty contentious issue amongst doctors and patients  
16 and providers of health care. The Council's proposal, if enacted, could be  
17 potentially racially discriminatory, because it's well-known that some African-  
18 Americans are susceptible to a condition known as Sickle Cell Anemia, a blood  
19 cell disorder, usually hereditary. If pharmaceutical research science produces  
20 either a cure or a quality of life treatment for this condition it will likely emerge  
21 from the biotech industry, probably as biological. I regulated biological drugs for a  
22 period of eight years during my career at FDA. It would be insensitive, if not cruel  
23 to deny proper curative or treatment regimes to any racial group in a civil society.  
24 The Council's effort to protect the local industry, the biotech industry, reflects a  
25 lack of true concern for the health and welfare of County employees and  
26 discloses its real motive in the RX Drug reimportation proposal and  
27 grandstanding politicization. Shameful, shameful display for lawyers, and a  
28 shameful display for you, Mr. Perez. The other issue that I'd like to talk about, in  
29 1973-74 the Supreme Court issued a series of decisions, law, that state that only  
30 the Food and Drug Administration can declare a drug safe and effective. So the  
31 Council, in effect, is saying that this process of reimportation is safe and you  
32 don't have the legal authority to make that decision. Only the Food and Drug  
33 Administration can make that decision.

34 Council President Perez,

35 Okay thank you, sir. Mr. Stewart. If you could hit your button there, Mr. Stewart.

36  
37 Bob Stewart,

38 Thank you. Good afternoon Mr. President Perez and members of the  
39 Montgomery County Council. My name is Bob Stewart. Director of Legislative  
40 and Community Affairs for MCEA UFCW Local 1994. We're here today to  
41 strongly urge you to pass both Council bill 3105 and Council bill 3205, I think will  
42 come a little later. 3105, this bill would require the Director of OHR to offer certain  
43



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1 prescription drug benefits to County employees and retired employees and allow  
2 each employee to buy prescription maintenance medications through one or  
3 more domestic or foreign pharmacy benefit managers at the lowest available  
4 cost. While there maybe some disagreement about exactly how much money will  
5 be saved the fact that depending on how big the pool is millions of dollars can be  
6 saved as irrefutable. This is a win/win situation both for Montgomery County  
7 taxpayers and for employees. This is an opportunity to not only avoid the shifting  
8 of costs to County employees, but to save taxpayers real dollars as well. Our  
9 union applauds the courage of those Council members, including you Mr.  
10 President Perez, in the 7-2 majority who voted to make a voluntary Canadian  
11 mail-order pharmacy option available to County and Agency employees and  
12 retirees. Your leadership on this important public policy issue is admired and  
13 appreciated and we urge your support of this bill. I would further say that in light  
14 of the just made comments, I mean, it truly is ironic that in the same week and  
15 within a day of this entire country applauding the courage and leadership of Rosa  
16 Parks who violated a law to stand up for millions of Americans, that it's -- that the  
17 argument for why this system of extortion and pricing in pharmaceutical drugs  
18 should continue is truly ironic. We applaud your leadership and those around the  
19 country who have been willing to step out on this issue and lead on this issue  
20 that cuts to the core of access and availability to prescription drugs for hundreds  
21 of millions of Americans. And we urge your support of this bill.

22  
23 Council President Perez,  
24 Thank you, Mr. Israel.

25  
26 Tom Israel,  
27 Good afternoon and thank you for this opportunity to speak in support of the  
28 proposed voluntary mail-order option for drugs. My name is Tom Israel. I'm here  
29 on behalf of the Montgomery County Education Association as well as SCIU  
30 Local 500, and the Montgomery County Association of Administrative and  
31 Supervisory Personnel. Together we represent more than 20,000 employees of  
32 the school system and several thousand retirees, all of whom potentially could  
33 benefit from your support for this proposal. In the last several years in the school  
34 system, we have taken a number of steps designed to control the cost of  
35 prescription drugs. We have an aggressively designed plan that encourages  
36 purchasing prescription drugs in the most cost-effective way. Generics over  
37 name brand wherever available. Mail order over retail for all maintenance drugs,  
38 formulary drug price incentives. As a result the Board's budget has shown a  
39 lower increase in health insurance costs than most public agencies or private  
40 plans. However concurrently with this the out-of-pocket cost for retired and active  
41 employees for prescription drugs has increased significantly in recent years. For  
42 example two years ago a retiree in MCPS paid \$10 for a 3-month supply of  
43 Lipitor. That same retiree is paying \$30 or \$50 for the same 3-month supply



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1 today. Other prescriptions for retirees can cost as much as \$70 for a 3-month  
2 supply. For a retiree taking multiple prescriptions the costs can add up quite  
3 quickly. As you all know the pension system in our state for school employees is  
4 the worst in the nation, so it's a double whammy. When you voted first in favor of  
5 pursuing a Canadian mail order option you asked three questions: was it safe,  
6 was it cost-effective, and was it legal? There has been agreement by all those  
7 that have been involved in the process that given proper program design such  
8 prescription drug purchases are just as safe as traditional domestic mail orders.  
9 There's further been agreement by all those involved that the name brand drugs  
10 purchased from Canada can be much cheaper than those purchased in the U.S.  
11 And there is also agreement that something like 30 other local and state  
12 jurisdictions have already set up similar programs and are already saving  
13 taxpayers, employees, and retirees millions of dollars. Where there are  
14 differences of opinion? There's a disagreement over how much money could be  
15 saved given the inability to predict participation rates, nobody knows exactly, and  
16 there's disagreement over the legality of such programs. We know you have  
17 seen legal opinions that say that this is illegal. However you also know that there  
18 are elected officials just like you all across the country who, based on the legal  
19 due diligence they have performed, have felt that this issue was not so open and  
20 shut. You also know that despite the rapid spread of such programs across the  
21 nation the FDA has taken no legal action against any such plan. You know that  
22 there are millions of Americans who on a daily basis and a monthly basis are  
23 importing drugs from Canada without retribution. We urge your support in reading  
24 the rest of our comments.

25  
26 Council President Perez,  
27 [Devon], I don't know if you want to.

28  
29 Unidentified  
30 I'm just here to introduce Matt, I don't have anything at this time, Mr. President.

31  
32 Council President Perez,  
33 Great, good to see you, Mr. [Dillon].

34  
35 Unidentified  
36 Good to see you, too.

37  
38 Matt Van Hook,  
39 Thank you Mr. Chairman.

40  
41 Council President Perez,  
42 Welcome.



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1 Matt Van Hook,  
2 My name is Matthew Van Hook, I'm with law firm of [Emel and Novitt] in  
3 Washington D.C. And I'm here today on behalf of PhRMA to express concern  
4 about this legislation. My concern is that this kind of legislation contemplates  
5 procurement of foreign drugs which is contrary to both state and federal law.  
6 We're concerned this will place employees of the County at risk and put the  
7 County potentially at risk of liability. The United States has a closed drug  
8 distribution system. The intent of such a system is to protect consumers and to  
9 assure that the drugs in the system have high quality and that counterfeit and  
10 adulterated drugs are kept out. The main provisions that accomplish this were  
11 passed by the U.S. Congress in the 1980s. Congressman John Dingle from the  
12 state of Michigan, who chaired the Health Committee at that time got this  
13 legislation enacted two main reforms. Number one, he said only the  
14 manufacturer can reimport drugs back into this country. They had a series of  
15 hearings which evidenced that was a portal for counterfeit and adulterated drugs  
16 to come into this country, and it was great harm to people that was documented  
17 at the time. That was a consumer protection that was put in place, and it's been  
18 in place since 1988. The other protection was to have a pedigree system put in  
19 place to assure that the drug, once it leaves the manufacturer, goes through the  
20 distribution system and ends up in your pharmacy is what it purports to be. The  
21 kind of law contemplated here would leapfrog both of those protections under  
22 many circumstances. That's what the problem is. The system that is in place is  
23 intended accomplish that safety. Now, ironically, while the Council is  
24 contemplating this kind of measure to open up the back door, states around this  
25 country, including Maryland, have been considering legislation to tighten up the  
26 pedigree system, for example, to add controls to make sure that when you get to  
27 the pharmacy what you think you're getting is exactly what your doctor ordered.  
28 Both Democratic and Republican HHS Secretaries, for example, under federal  
29 laws have recently determined that there is no safe way to do the kind of  
30 importation that is contemplated by this legislation. And this legislation doesn't  
31 have any safeguards even identified to do this. So it's really an open-ended  
32 invitation for mischief and for problems. Additionally the County is going to be at  
33 risk of liability here. The County is putting itself in a position where it will be  
34 sanctioning this kind of procurement and I don't see any way to guard against the  
35 County being liable if indeed adulterated drugs come in and hurt somebody, if  
36 that comes to pass. What protections are going to be lost here? You're not going  
37 to be sure that you're getting drugs that your doctor ordered, you're not going to  
38 be sure that your drugs have proper U.S. labeling. You're not going to have the  
39 controls in place to make sure a valid prescription was used in ordering it. You're  
40 not going to have the kind of confidence you do if you go in any pharmacy in  
41 town here, that you're getting what FDA has identified as being proper drugs. So,  
42 thanks for the opportunity to identify some of those concerns today.  
43



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1 Council President Perez,  
2 Great. Is Eric Blumberg here? Okay.

3  
4 Eric Blumberg,  
5 Thank you my name is Eric Blumberg, I'm here today...

6  
7 Council President Perez,  
8 If you could hit your button there, great.

9  
10 Eric Blumberg,  
11 ...solely as a citizen of Montgomery County. I will be very brief. The proposal by  
12 this Council to pass drug import legislation that violates clear federal law is ill-  
13 advised and should be rejected by responsible members of this Council. As  
14 representatives of the County government you serve in a leadership and a model  
15 role for all citizens. The message you will send to the County's younger  
16 generation and students by passing this law is that it is okay to violate the law so  
17 long as you may not think you're going to be charged with a crime. What -- will  
18 Montgomery County civics and government teachers explain passage of a drug  
19 importation law to their students by saying that legislators are different, it's okay  
20 for them to encourage violation of the law. What will Montgomery County  
21 prosecutors tell juries when lawyers representing drug dealers argue that their  
22 clients are not doing anything differently than this Council. They're simply buying  
23 and selling illegal drugs for economic reasons. I do not know how much money  
24 you anticipate saving with this law, nor am I familiar with Maryland's tort laws. I  
25 wonder whether you have considered whether tort suit liability could potentially  
26 wipe out your entire planned savings. It's not unusual at all today for tort suits to  
27 have 20, 30, and hundreds of millions of dollars. I don't think you're planning to  
28 save that much money. One lawsuit, one misstep, you're in the hole. If you think  
29 this law under consideration today is legal and wise, you should ask yourself why  
30 hasn't every city and state in the country begun to import foreign drugs? A  
31 witness testified there were 30 some jurisdictions that had done this. I don't know  
32 how many of those have begun to implement the laws but there are thousands  
33 and thousands of cities. 31 out of all that population is not much of an index of  
34 legality. I suggest that other jurisdictions thought about the foregoing concerns  
35 and decided that being a leader in lawbreaking was not good public policy. As a  
36 county resident I urge you to carefully reconsider your votes and do the right  
37 thing. Thank you.

38  
39 Council President Perez,  
40 Okay, I want to address you appropriately. Is it...

41  
42 Tom McGinnis,  
43 Captain.



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1  
2 Council President Perez,  
3 Captain McGinnis. Okay, welcome, thank you for coming.  
4

5 Tom McGinnis,  
6 Thank you very much. I'm Thomas J. McGinnis, the Director of Pharmacy Affairs  
7 at the U.S. Food and Drug Administration. Let me start by saying today that FDA  
8 is very concerned about the safety risks associated with importation of  
9 prescription drugs from foreign countries. This is because FDA cannot provide  
10 adequate assurance to the American public that the drugs products delivered to  
11 consumers in the United States from foreign countries are the same products  
12 approved by FDA. These safety concerns are reflected in the importation  
13 provisions of the Federal Food, Drug, and Cosmetic Act which strictly limit both  
14 the types of drugs that may be imported into the United States, and who may  
15 import them. Congress enacted these provisions to create a relatively closed  
16 distribution system which helps ensure that the domestic drug supply is and  
17 remains safe and effective. These laws to ensure compliance are both enforced  
18 by the Food and Drug Administration and the State Board of Pharmacy. FDA  
19 approvals are manufacturer specific, product specific, and include many  
20 requirements relating to the product such as its manufacturing location, its  
21 formulation, the source of active and inactive materials, processing methods,  
22 manufacturing controls, packaging location, container enclosure systems, and  
23 appearance of the product. Generally drugs sold outside of the United States are  
24 not manufactured or packaged by a firm that has FDA approval for that particular  
25 drug. More over, even if the manufacturer has FDA approval for the drug the  
26 version produced for foreign markets usually does not meet all of the  
27 requirements of the United States approval and thus is unapproved. With respect  
28 to American good's return, it is illegal for any person other than the original  
29 manufacturer to bring a product back into the United States that was made in the  
30 United States. As you heard earlier those were the provisions of the Prescription  
31 Drug Marketing Act of 1988 when foreign counterfeit birth control pills got into the  
32 United States along with Ceclor, an antibiotic, spread quickly through the  
33 pharmacy distribution system in the United States and got into consumer's  
34 hands. That prompted the Congress to move to create those provisions of the  
35 Federal Food, Drug, and Cosmetic Act. Practically speaking it is extremely  
36 unlikely that all of the applicable legal requirements will be met if a Canadian  
37 pharmacy ships drugs into Montgomery County. Consequently virtually every  
38 shipment would violate the Food, Drug, and Cosmetic Act, moreover individuals  
39 or programs that cause illegal shipments would be violating the Federal Food,  
40 Drug, and Cosmetic Act. Thank you.

41  
42 Council President Perez,



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1 Thank you for coming, Captain McGinnis. We've had some conversations with  
2 people at the Custom Service. They may have changed their name now in the  
3 post 9/11 world. There is a personal use policy that is in effect. If I were -- I grew  
4 up in Buffalo, New York. 15 minutes from Ft. Erie, Ontario. If I come back to the  
5 U.S. from Ft. Erie and tell them "Yes, I purchased a 30-day supply of Lipitor,  
6 pursuant to the FDA's personal use practice, they would mark it down and say,  
7 "Have a good day and we'll see you next time you come across the border." I'm a  
8 little confused in light of what I heard you just say. If it is so unsafe to import  
9 drugs from Canada, why do you have that policy at the FDA?

10  
11 Tom McGinnis,  
12 Well, the official FDA policy states -- and that was put into place for patients with  
13 serious and life-threatening conditions, when they have tried everything available  
14 in the United States, FDA wanted to allow them, working with their doctor, to go  
15 outside of the United States and procure a medication that's just not available at  
16 a U.S. licensed pharmacy. To bring it back and try that for their serious and life-  
17 threatening condition. It's not meant for things that are available at state licensed  
18 pharmacies.

19  
20 Council President Perez,  
21 Well, sir, you might want to have a conversation with a U.S. Custom Service  
22 because their practice for last umpteen years has been to allow it to happen. And  
23 what I just heard you say today, Captain, is that's a public health crisis in the  
24 works if we're allowing people to come across the border and openly and  
25 notoriously declare that they have their Lipitor, to use my own example, and  
26 they're is a practice and I have looked up on the website and we've confirmed  
27 this with others, there is nothing we're not hiding it, people aren't hiding it under  
28 their front seat or in their, you know, false bottom in the luggage compartment.  
29 This is a very open, notorious, accepted practice. And I don't understand how the  
30 FDA would allow this to occur if this is such a public health hazard.

31  
32 Tom McGinnis,  
33 The Customs Service has allowed patients to bring small amounts of medication  
34 to come into the United States.

35  
36 Council President Perez,  
37 Well, if it's small -- What's -- Why is that, why is a 30-day supply acceptable when  
38 a -- if it's, if it's adulterated or potentially adulterated you should have a zero  
39 tolerance policy.

40  
41 Tom McGinnis,  
42 We have to be very careful. Just recently we've had counterfeit Lipitor coming  
43 across the southern border of the United States. Patients didn't know they were





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1 taking counterfeit product until they went to their doctor a few months later and  
2 saw their cholesterol levels were rising. So we don't know much about these  
3 medications at all and that's what really worries us.

4  
5 Council President Perez,  
6 Yes, sir.

7  
8 Matt Van Hook,  
9 Mr. Chairman, if I may respond to that. The policy you're taking about is an  
10 enforcement discretion policy at FDA. And it only allows individual -- It's an  
11 enforcement discretion policy, it only allows exceptions for individuals on a case-  
12 by-case basis. What we're talking about here today would contemplate  
13 commercial scale importation.

14  
15 Council President Perez,  
16 You're saying that Bob Stewart, employee of MGEO, if he wants to get his  
17 maintenance meds from Canada, he can do it and we'll reimburse him. We're not  
18 talking about -- we're not going to have a stockpile of Canadian drugs here in  
19 Montgomery County.

20  
21 Matt Van Hook,  
22 But you're gonna procure through one -- you're gonna procure -- you're having a  
23 request for proposal for one organization to be the procurer for that medicine.  
24 That is a commercial scale importation as opposed to one person going into a  
25 Toronto pharmacy and walking it back across the border.

26  
27 Council President Perez,  
28 If it's unsafe, it's unsafe. Why are they allowing it to happen if this is so unsafe?

29  
30 Matt Van Hook,  
31 They have limited enforcement resources, and if they could pay attention to it  
32 case-by-case they would. And that is a concern. There are thousands of  
33 packages coming in every day through the mails and looking at those is a  
34 insurmountable challenge right now. They're looking at technologies to try to  
35 accomplish that, but today it's impossible, but to allow commercial scale  
36 importation is the difficulty.

37  
38 Council President Perez,  
39 Have you thought about looking at technologies that could allow for the effective  
40 reimportation? Do you think -- are those technologies beyond the scope of our  
41 capacity to imagine?

42  
43 Matt Van Hook,



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1 They're within sight but still over horizon. Radio frequency identification chips  
2 might one day allow the tracking of even individual pills, but the technology is not  
3 here. I know that FDA is looking at that closely, that but it's not here today.

4  
5 Council President Perez,  
6 Captain McGinnis, are you familiar with Springfield, Massachusetts, the program  
7 they have in place?

8  
9 Tom McGinnis,  
10 Yes, I am. Yes, I am.

11  
12 Council President Perez,  
13 Has the FDA sued Springfield, Massachusetts?

14  
15 Tom McGinnis,  
16 Not yet.

17  
18 Council President Perez,  
19 Has the FDA sued Illinois?

20  
21 Tom McGinnis,  
22 Not yet.

23  
24 Council President Perez,  
25 Has the FDA sued Montgomery, Alabama?

26  
27 Tom McGinnis,  
28 Not yet.

29  
30 Council President Perez,  
31 Has the FDA sued any state or city?

32  
33 Tom McGinnis,  
34 We have not sued a city or state, we have sued commercial entities importing  
35 prescription drugs or facilitating the importation of prescription drugs.

36  
37 Council President Perez,  
38 Right, and one example would be RX Depot, the -- I think it was the Oklahoma  
39 outfit.

40  
41 Tom McGinnis,  
42 That's correct, in the Federal Court in Tulsa, Oklahoma.



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1 Council President Perez,  
2 And that was a civil suit for injunctive relief saying "Stop doing it?"

3  
4 Tom McGinnis,  
5 That's correct. We were also in Federal Court in New York against a similar  
6 entity.

7  
8 Council President Perez,  
9 Right, a for-profit enterprise?

10  
11 Tom McGinnis,  
12 Exactly.

13  
14 Council President Perez,  
15 And it was a civil suit saying "Cease and desist."

16  
17 Tom McGinnis,  
18 That's correct.

19  
20 Council President Perez,  
21 Okay, Mr. Blumberg, I think that Captain McGinnis just answered your question.  
22 You indicated that we are leaders in lawbreaking, the civics classes that I took  
23 and teach talk about the fact that we have these branches of government called  
24 the Executive, the Legislative, and the Judicial Branch, and as Commissioner  
25 Hubbard told us a few months back when we had a hearing in this, maybe some  
26 day it'll come down to a referee having to referee the legal disputes that we have.  
27 but at the moment we have a number of lawyers who say this is legal, we have  
28 the FDA and others who say it's illegal. And when I was a prosecutor if I thought  
29 something was illegal I went to the entity, I wrote them a letter, and if they didn't  
30 cease and desist then we filed an appropriate action. Captain McGinnis has just  
31 explained to us that the FDA has not filed that action. If and when a court were to  
32 say cease and desist, stop saving the taxpayers money, of course we would  
33 respect it. But as you understand, we have legal opinions that go both ways in  
34 this. So I would respectfully disagree with you that there is any lawbreaking going  
35 on. The unfortunate reality, and this is far above Captain McGinnis' pay grade, is  
36 that we've got a lot of politics going on over at the FDA. I say that with a heavy  
37 heart, having worked for HHS for two years. And so I think it's important to  
38 understand those distinctions, and some day...

39  
40 Eric Blumberg,  
41 Excuse me may I respond?

42  
43 Council President Perez,



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1 As soon as I'm done I'll give you an opportunity to respond. And some day if  
2 there is a court, and I sure do hope that maybe we can resolve this in is a court  
3 of law, because they keep telling us it's illegal but they don't act on it. My good  
4 friend and colleague, Councilmember Denis has asked the question with great  
5 frequency. You asked the question -- there is only 24 or 30 places doing this, well  
6 that must be evidence that it's not legal. Well, I guess I would ask a different  
7 question, which is if it is so illegal why hasn't the FDA sued the 24 or 36 people  
8 or entities that are doing it. And that's clearly something that's within their  
9 discretion, they haven't done it, and that's why we have referees out there,  
10 they're called courts. And until and unless a court tells us, I think we can act in  
11 what we consider is the public interest.

12  
13 Eric Blumberg,  
14 All right, may I respond?

15  
16 Council President Perez,  
17 Absolutely, sir.

18  
19 Eric Blumberg,  
20 I think you're drawing a distinction between what is illegal and whether or not a  
21 agency has taken action. Three people, three different law firms including your  
22 own lawyers have told you, unequivocally, flat out, what you are proposing to do  
23 violates the Food and Drug Act. Those are the three opinions that the County has  
24 solicited.

25  
26 Council President Perez,  
27 Do you want me...

28  
29 Eric Blumberg,  
30 No. I've been practicing Food and Drug law for 35 years. This is not an arguable  
31 proposition. This is not debatable. You are flat out -- would be violating the law  
32 when you introduce those drugs into interstate commercial. It's true we have not  
33 yet sued -- the FDA has not yet sued any entity, but that doesn't mean it won't  
34 and it doesn't mean it's legal. That just means you're waiting to be sued. Do you  
35 really want it launch the County on a program that says it's legal until we're told  
36 not to do it. The law is on the books, it's clear. Nobody has suggested there is  
37 any interpretation that would make it not clear. You're just saying we haven't yet  
38 been sued .

39  
40 Council President Perez,  
41 Well actually, sir, have you read the opinion of the Attorney General of  
42 Minnesota, have you read the opinion of the consultant from the Lewin Group  
43 who respectfully take issue with your opinion?



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1  
2 Eric Blumberg,

3 Well, I would like to see it and I'd be happy to respond to it. I'm talking about the  
4 three opinions that this Board has received from its consultants.

5  
6 Council President Perez,

7 Happy to show you those opinions, sir. Thank you. Mr. Van Hook?

8  
9 Matt Van Hook,

10 Thank you, Mr. Chairman. If I may respond. I really would share Mr. Blumberg's  
11 view. There is no legitimate legal issue over -- over whether it's legal to import  
12 drugs in the manner contemplated by this law. And while FDA may have yet not  
13 decided to sue a state or local government entity involved in it, it has sued private  
14 organizations, which -- your legislation contemplates a private corporate entity  
15 being involved in providing these drugs, and FDA have sued such organizations  
16 and courts have found that activity to be illegal. And two months ago the Federal  
17 District Court in Minnesota found this kind of importation illegal and I'd be glad to  
18 give you a copy of that opinion for the record.

19  
20 Council President Perez,

21 Look forward to it. Okay. Denis?

22  
23 Councilmember Denis,

24 Yes, thank you, Mr. President. And in view of some of the ad hominem  
25 comments that we're made I just want to commend you again for your great  
26 leadership and courage in pursuing this issue. I think we have been at this now in  
27 the County Council for about 2 1/2 years through various task forces and public  
28 hearings and different iterations. And I got involved in this as lead member for  
29 personnel because there are provisions in labor contracts and also, I was looking  
30 to save the County money. Clearly, the problem, as I see it, part of the problem  
31 is that there's a disconnect at the FDA between words and deeds. The FDA does  
32 not seem to have the courage of its convictions, and in your answers to Mr.  
33 Perez's very reasonable questions, it does raise the transcending issue if this is  
34 so illegal and so dangerous, why has there not been legal action sought and  
35 what would be the nature of that legal action? Clearly would be a civil action, we  
36 were virtually told that at our forum that we had here at the County Council, it  
37 would be a temporary restraining order, stop saving the taxpayers money, or I  
38 wonder what the nature of that legal action would be. And if it were found by a  
39 court that it was in violation, clearly it would not proceed, but a legal opinion is  
40 not a legal ruling. And we are left with a situation where the House of  
41 Representatives has passed something similar to this where four different states  
42 have passed it and different counties and where it is in our collective bargaining  
43 agreements and it just seems to me that this argument from legality is arguable



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1 at best and some people have problems with the Patriot Act and there's litigation  
2 going on there, or with No Child Left Behind or with some rulings of the  
3 Department of Transportation or the Environmental Protection Agency and  
4 there's litigation up one side and down the other. And you get a ruling and you go  
5 on. But I understand the sensitivity of this issue, but it seems to me that we  
6 should proceed, and as we have reviewed this matter, it seems to us and to so  
7 many members of Congress, has anyone spoken to Henry Hyde about this?  
8 Seriously, or Chairman Hyde about this? I mean there is such a coalition in  
9 support of what we are attempting to do in the County Council between  
10 Republicans and Democrats that it does raise a question as to what is the nature  
11 of the opposition? And my friend Devon [Dulan] who served in the legislature,  
12 with how many times did we run into Attorney General's opinions that were  
13 contrary to something we wanted to do or on the other side? And how many  
14 times did we proceed notwithstanding an Attorney General's opinion, and how  
15 many times did the Court of Appeals rule that the Attorney General is entitled to  
16 his opinion and not necessarily the law, and this is our opinion and we're the  
17 courts. So I don't think -- if I had a dime for every time we have been told in any  
18 level of government I am familiar with, don't do this because you might be in  
19 violation of a law, I would be a wealthy person. I think you have to proceed if you  
20 think something is right and if you think that it is lawful. And moreover, any  
21 attorney -- and I appreciate being lectured to as to what the law is, and being  
22 reminded of my responsibilities as a member of the bar, But I think that it is clear  
23 that if you believe that something is correct and you are a member of a legislative  
24 body, that there is very strong presumption of constitutionality and legality that  
25 attaches to any enactment of a legislative body and everyone knows that, and so  
26 there is very high bar to overcome, and that is the presumption that is in the law.  
27 So we must be about to do something significant here to have all of this firepower  
28 being directed at us at this particular time. I think that may actually be the case,  
29 so I look forward to our discussion later on this afternoon when I believe we will  
30 finally take this matter up for consideration and final passage.

31  
32 Council President Perez,

33 Okay, no other --

34  
35 Councilmember Silverman,

36 Can you take one more? Can you take one more comment?

37  
38 Council President Perez,

39 Mr. Silverman had a comment.

40  
41 Councilmember Silverman,

42 Just real briefly because this is a public hearing and we're not really debating the  
43 issue, but I just want to go back to something you said, Captain. What I



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1 appreciate, I'm also a lawyer, but not my field -- I appreciate the comments about  
2 in affect what we will call prosecutorial discretion for lack of a better term. That is  
3 fine but the threshold problem that I have and why I voted in favor of this when  
4 we had an opportunity before, is I don't buy into the safety issue, not because I  
5 consider myself an expert but because you are the expert and because if the  
6 FDA is essentially saying that it is okay in the aggregate for millions and millions  
7 of dollars to be spent by tens of thousands of U.S. residents. Whatever it is. The  
8 amount of folks who are crossing the border to get something on their own, I  
9 can't fathom why that is allowed to continue when our practice will somehow  
10 bring down the wrath of who, I am not sure, since, as my colleague has  
11 referenced, the FDA is not going after local jurisdictions is that is the trouble I am  
12 having. The Lipitor that would be imported for our employees is the same Lipitor  
13 that our employees could get if they just got on a plane and went to Montreal and  
14 so I don't understand what the difference is.

15  
16 Matt Van Hook,

17 If I may, with all due respect, the difference is the specter of transshipment.  
18 When you go across the border and walk into a pharmacy in Toronto, I'll leave  
19 that to FDA to worry about that individual, how safe that is. When you talk about  
20 commercial scale importation, when you talk about bringing in any significant  
21 amount of product like this, you are talking about people accessing product, and  
22 it's already been documented, it doesn't come from Canada necessarily, it comes  
23 from anywhere in the world and the Canadian authorities have made it clear that  
24 is not their watch. They're not worried about what's transshipped from Canada  
25 here. And this bill, by the way, doesn't even talk about Canada, it's "foreign." And  
26 so the problem is you're talking about sanctioning something that is  
27 unprecedented in terms of scope and commercial importation.

28  
29 Councilmember Silverman,

30 Well, more unprecedented than what they did in Springfield and they've been  
31 doing for the past few years in Springfield?

32  
33 Matt Van Hook,

34 That is -- I think it's very troubling what they're doing.

35  
36 Councilmember Silverman,

37 It is comparable to what they did in Springfield. So what's the history been in  
38 Springfield?

39  
40 Matt Van Hook,

41 I don't know about Springfield in particular, but with a lot of those jurisdictions...

42  
43 Councilmember Silverman,



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1 I assume the FDA does.

2  
3 Matt Van Hook,

4 ...they sanction individual importation. What they do is they have websites that  
5 sanction individuals on their own to -- on their own import things from particular  
6 Canadian sources, or allegedly Canadian sources. This is different. This is  
7 having a government -- this would have a Montgomery County contract with an  
8 entity to do commercial scale importation.

9  
10 Council President Perez,

11 Just for the record, sir, that is incorrect. They have a vendor just like we're  
12 contemplating here. And that is the reality and I invite you to check it. Still looking  
13 for the maimed Springfields, haven't found them. Utilization keeps going up.  
14 People keep saving money. \$4 million annually and running for a city one eighth  
15 the size of Montgomery County.

16  
17 Eric Blumberg,

18 Can I speak briefly to the absence of bodies that you're referring to?

19  
20 Council President Perez,

21 Sir, we are at 2:40 right now, I think you've made your...

22  
23 Eric Blumberg,

24 Do it in 40 seconds

25  
26 Council President Perez,

27 ...Okay, take 30 seconds.

28  
29 Eric Blumberg,

30 It is a well-known epidemiological fact that approximately 1% of all adverse  
31 reactions get reported. Unless a product caused an acute injury, the person  
32 would not even associate it with the product. If he or she did, they may not report  
33 it, if they report to the physician the physician may not report it to the  
34 government. If the product is subpotent or ineffective, the person may never  
35 know they're not getting the benefit of that product. Also, the adverse  
36 experiences that they experience, they may just attribute to the underlying  
37 condition for which they are taking the medication. So the absence of bodies or  
38 maimed citizens is not an index on which this Council should rely.

39  
40 Council President Perez,

41 Ms. Floreen.

42  
43 Councilmember Floreen,





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1 Thank you. Mr. Van Hook, thank you for your materials. You provided us with  
2 also some information. I am not sure if he's is a colleague, information about  
3 Chris Ward, with whom I guess you have been working. He is from Hamilton,  
4 Ontario, the former mayor, I'm sympathetic to that. Counselor, provincial  
5 legislator, and the like and obviously engaged in apparently the Ontario Drug  
6 Benefit Program.

7  
8 Matt Van Hook,  
9 Yes, Ms. Floreen.

10  
11 Councilmember Floreen,  
12 This is a good thing and I compliment Mr. Ward on this initiative. Are you  
13 suggesting to us that drugs in Canada are de facto unsafe?

14  
15 Matt Van Hook,  
16 I think that what Mr. Ward was pointing out was there was a case that happened  
17 earlier this year where several people were killed from counterfeit drugs entering  
18 their system. No system is perfect, but I think his concern is...

19  
20 Councilmember Floreen,  
21 That's important to recall, no system is absolutely perfect. But you have a  
22 colleague who has initiated a very successful system along the lines of what  
23 we're trying to do here to provide accessible low-cost safe drugs for residents  
24 and he's done that with Canadian prescriptions, correct?

25  
26 Matt Van Hook,  
27 Not Mr. Ward.

28  
29 Councilmember Floreen,  
30 Well, he established, I am reading what you have given us, that established the  
31 Ontario Drug Benefit Program that serves millions of seniors and low-income  
32 Ontarians at an annual cost of \$3 billion. You gave it to us here presumably to  
33 inspire us to have confidence in your remarks. But doesn't that also offer the  
34 proof of the pudding that there are indeed safe drugs accessible in other parts of  
35 the world that American residents should have a right to have access to if they're  
36 safe.

37  
38 Matt Van Hook,  
39 Well, Mr. Ward was an -- served in the government of Canada as a health  
40 official. His concern that he articulated here is that there is a big difference  
41 between what that government provides its own citizens and what people outside  
42 of Canada would access through commercial means which are not within the



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1 government purview. The Canadian government does not undertake to protect  
2 exports from Canada or transshipments through Canada.

3  
4 Councilmember Floreen,  
5 Have you had an opportunity to take a look at the RFP that's gone out on behalf  
6 of Montgomery County?

7  
8 Matt Van Hook,  
9 I have not.

10  
11 Councilmember Floreen,  
12 Perhaps that would offer you greater comfort in this regard.

13  
14 Council President Perez,  
15 Okay, thank you. We are going to take one hearing out of order, it's a special  
16 appropriation on a -- we're all done, thank you, appreciate your time.

17  
18 Councilmember Denis,  
19 Mr. President.

20  
21 Council President Perez,  
22 Oh, I'm sorry.

23  
24 Councilmember Denis,  
25 No, I just wanted to see, when will we take action? We'll do this...

26  
27 Council President Perez,  
28 We'll do this today.

29  
30 Councilmember Denis,  
31 But immediately...

32  
33 Council President Perez,  
34 Yeah, after our hearings.

35  
36 Councilmember Denis,  
37 Okay, all right, thank you.

38  
39 Council President Perez,  
40 We have a bunch of folks here waiting for hearings. We're going to do Agenda  
41 Item number 20, it's a public hearing on special appropriations for the FY06  
42 operating budget of the Department of Recreation for Blair High School Sports  
43 Academy in the amount of \$168,260. Action scheduled following the hearing, we



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1 have three witnesses, Jose Segura, William Soriana, and Fran Rothstein. And as  
2 soon as you get here we can begin. Jose? Whenever you are ready you can  
3 begin. We're still looking for Fran Rothstein. If there's been a -- okay. You may  
4 begin, Jose.

5  
6 Jose Segura,

7 My name is Jose Segura, I'm the director of the Blair Sports Academy and  
8 Security Assistant at Blair High School. I am well aware of the temptations and  
9 trials and deceptions that our students -- minority students face today. I grew up  
10 in low-income housing projects right down the road from here, and graduated  
11 from Wheaton High School. I fell into devious behavior myself. Many times I  
12 found myself in difficult situations. My strong believe that the good Lord had His  
13 hand on my life and here I am today. My goal is to make a difference in the lives  
14 of the students like those you see around you by teaching them the importance  
15 of a good education and how to overcome the many obstacles that they face. I  
16 am well aware of these obstacles because I faced them myself. When gang  
17 activity began to escalate at Blair High School I was called to the main office  
18 because of an altercation was taking place. What I saw next changed my life. On  
19 one side I saw Latino students, on the other side I saw African-American  
20 students. They were throwing up gang signs at each other ready to do some  
21 serious damage. I knew most of the students so we were able to stop anything  
22 from happening. That day three years ago the idea for the Blair Sports Academy  
23 began. Mr. Gainous asked if I would be interested in starting something for these  
24 students. Soon later I met Susan [Gardner] from the ESA office who had  
25 experience in this type of work. She organized a task force of 24 different  
26 organizations, and last March the Montgomery County Rec Department stepped  
27 up and sponsored the indoor soccer league, which we serve over 390 students  
28 through competitive sports, academic support, and developing leaders amongst  
29 the students. If you pass this budget, I guarantee you will begin the process of a  
30 gang prevention in Montgomery County. This will enable us to provide prevention  
31 in three main areas, afterschool intramural sports programs, which will help  
32 students to identify with their schools, changing their perception of the school and  
33 the staff of the school, and provide academic support to all students, summer  
34 camps to provide the structure -- the structure environment that they need  
35 throughout the year, a parent component helping the students and parents  
36 improve communications at home and provide structure that will be vital for their  
37 success in the future. My commitment to you is to reach as many students as  
38 possible and to do my very best not to lose one student to gang violence or gang  
39 influence. We will face -- will we face failure? Of course, but if one student is  
40 saved you will have made a difference for a lifetime affecting thousands to come  
41 and we plan to save more than one. I just wanted to point out to you, we had  
42 over 174 Hispanic students participate in this program last year, 116 African-  
43 American students participate. 318 we're male, 71 per female.



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1  
2 Council President Perez,  
3 Thank you. If you hit your button right before you start, that'd be great. There's a  
4 little button right there.

5  
6 William Soriana,  
7 Good afternoon, my name is William Soriana. I'm a student at Blair High School  
8 in Silver Spring. The after-school sports program at Blair is very important to me  
9 and my friends. It is extremely important because it helps to get young people's  
10 attention so they don't get involved in negative activities after school. It is  
11 especially important because it is an alternative to help with the problem of kids  
12 being involved in gangs. The program had a positive impact on me because in  
13 order to participate I had to raise my GPA. I wanted to play soccer. I wanted to  
14 play soccer. So I started to go to academic support regularly. The fact that I went  
15 to academic support resulting in my grades going up a lot. I went from a .86 to  
16 2.0. That's better.

17  
18 Council President Perez,  
19 Absolutely, that's called exponentially better.

20  
21 William Soriana,  
22 When we made the team we had to pick eight people quickly, some of us were  
23 enemies and some of us didn't know each other. When we became a team we  
24 had to get together and talk after each game. We had to get to know each other  
25 to be able to play as a team. After getting to know each other we became best  
26 friends. Before the program started I used to go and hang out at McDonald's -- I  
27 always saw fights, the police always came. When the program started the  
28 problems were reduced by 90%. The police told us this. The program had  
29 anyone's attention. They wanted to be there. It didn't matter if they played or not.  
30 There were people from different countries. We learned from each other.  
31 Connecting grades with sports was a good idea because we studied so we could  
32 have fun at the same time. It is good to have after-school programs because  
33 some of them don't have anything to do after-school. They go and hang out at  
34 the mall, for example. The most important thing is that it helps prevent young  
35 people from getting involved in gangs. If you care about young people, if you  
36 want us doing positive things after school, you should continue the program.

37 Thank you for your attention.

38  
39 Council President Perez,  
40 Thank you. Thank you for coming. Thanks to your colleagues. Fran, good to see  
41 you.

42  
43 Fran Rothstein,

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1 Thank you. Good afternoon, I am Fran Rothstein, co-president of the Blair High  
2 School PTSA. Thank you, Mr. Perez for supporting the Blair Sports Academy.  
3 Our PTSA invested time and money to establish BSA last Spring through a  
4 partnership including Blair, MCPS, the Rec Department, Montgomery County and  
5 Takoma Park Police and YMCA Youth and Family Services, JJ FAIR, and others.  
6 It addresses critical issues. First is size, Blair is so big that many students who  
7 wish to play and would benefit from the team sports structure are left out. Second  
8 is academic eligibility, too many students at Blair and other red zone schools are  
9 academically ineligible for most extracurriculars. Third is racial distribution of in  
10 eligibility. Last winter, for example, 22% of Blair ninth graders were ineligible  
11 compared to 28% of African-Americans and 37% of Latinos. Fourth is the  
12 economic class factor, students from low-income families tend to do less well in  
13 school, are more likely to be academically ineligible, and have fewer options for  
14 nonschool based activities than wealthier students. Fifth is the growth of gangs,  
15 many populations to whom the Blair Sports Academy appeals are the very  
16 students most likely to be preyed upon by gangs and targeted for gang  
17 recruitment. What is the big deal about after-school activities? Extracurricular  
18 participants are advantaged academically. Athletic activities in particular are  
19 associated with school success and college aspirations. Strong connections to  
20 school are linked with lower emotional distress levels, later first sexual  
21 intercourse, lower levels of violent behavior, and less frequent substance abuse.  
22 Students barred from after-school activities are at high risk given that 3:00 to  
23 6:00 p.m. is the peak time for youth crime, violence, substance abuse, sexual  
24 activity and gang involvement. Extracurricular to anticipation is negatively  
25 correlated with student alienation. Students who are isolated and less connected  
26 with adults are more likely to harm themselves or others. Connections with  
27 coaches and sponsors should not be denied to any student especially those at  
28 risk. No Child Left Behind's narrow academic focus leaves schools insufficient  
29 time to meet students' nonacademic needs. Extracurricular activities should be  
30 part of all students' extended school day, not a privilege only for some students.  
31 Thanks to the YMCA Youth and Family Services, BSA is up and running for the  
32 short term. BSA draws on other youth serving public and nonprofit agencies,  
33 notably police departments, a proven strategy. During this school year with  
34 Council funding, we will analyze how best to achieve financial and programmatic  
35 sustainability, while taking full advantage of each partner agency's strengths. The  
36 Rec Department will document process and outcomes. We will share what we  
37 learn with you. As you consider whether to devote a sizable chunk of funding to  
38 one high-school's after-school program please factor in the positive outcomes  
39 from last Spring's initial effort. Let me highlight just one. As William said, MCPD's  
40 third district reported a 90% decline in after-school fights during last Spring's  
41 Sports Academy. With Blair's size and complexity if it works for us, it should be  
42 easy to adapt to the many smaller schools with similar needs. We applaud Mr.



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1 Perez for recommending the supplemental appropriation and respectfully request  
2 a yea vote from each of you.

3  
4 Council President Perez,  
5 Thank you. Thank you, we have a number of questions. Mr. Knapp was first and  
6 then Mr. Andrews.

7  
8 Unidentified  
9 [INAUDIBLE]

10  
11 Council President Perez,  
12 Okay, Mr. Andrews?

13  
14 Councilmember Andrews,  
15 All right, well, I want to commend Council President Perez for introducing this.  
16 And note that he went over the very impressive results that were achieved in its -  
17 - in this last year. And I want to note that Susan [Gardner], who you referenced is  
18 with us in the back of the room, and thank her for her good work in helping to get  
19 this program launched. Good job.

20  
21 Council President Perez,  
22 I've be to thank all of you, Jose, you first brought this to our attention and Fran,  
23 first brought this to our attention, and most importantly the students first brought  
24 this to our attention and I am glad that you all are here today. We've had a great  
25 day of participation from students. And it is great. I love Stewart Rochester, he is  
26 a great guy. He is one of the serial activists that we like to see here but it is  
27 always nice to see new faces here and that is why I so much appreciate your  
28 presence and support. And so thank you for your leadership and we will be  
29 taking this up later today. That is -- I see no other -- oh, Ms. Praisner, did you...

30  
31 Councilmember Praisner,  
32 Yeah, I had a question. Before we act on this today, I'd like if possible a list of  
33 where the other schools were that had Sports Academies that no longer -- and  
34 the extent to which they're different. And if we can't get that all by today, at least  
35 we should have that information for the Council as we go through this fiscal year.  
36 I know there are other folks who had academy programs, or similar programs,  
37 and we are not addressing them today, and I think it is important that we have a  
38 fuller picture. And I intend to support this afternoon, but I do you think we cannot  
39 continue to address this on a piecemeal advocacy basis. We have got to look at  
40 this comprehensively, and I think it is great that there is no school today so that  
41 folks can be here, but there are lots of kids who are not here, because from other  
42 schools, who may not have known that there was this opportunity to advocate  
43 and there have to be clear criteria for where the program is placed, clear criteria



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1 for what the outcome should be for many of these programs, and a clear  
2 discussion with the school system to the extent stipends can be used for these  
3 programs as they exist now. And I just cannot resist making a comment that the  
4 advocates for a very large Blair were told when the issue of a very large Blair  
5 was on the table, that there are negative implications of that as well, but nobody  
6 wanted to hear that then.

7  
8 Fran Rothstein,  
9 Can I respond?

10  
11  
12 Council President Perez,  
13 No. I think we're moving forward, here. Thank you, Fran. [LAUGHTER] Okay,  
14 thank you to all of you for coming. Let's move on to the next hearing, Agenda  
15 Item 15 is the public hearing on Bill 3205, contracts and procurement service  
16 contracts, which we...

17  
18 Unidentified  
19 14.

20  
21 Council President Perez,  
22 We did 14, didn't we?

23  
24 Unidentified  
25 Not yet.

26  
27 Council President Perez,  
28 Oh, I'm sorry, let's go back to 14. I apologize. I thought I did 14 and I didn't.  
29 Public hearing on Zoning Text Amendment 513 which would allow the  
30 Department of Permitting Services to reduce or waive certain sign permit  
31 application fees and generally amend provisions concerning sign review.  
32 Persons wishing to submit additional testimony should do so before November  
33 the 15th. The PHED committee work session will be scheduled a certain date.  
34 Reggie Jeter, Greg Russ, Paul Bolton are the witnesses.

35  
36 Paul Bolton,  
37 How you doing?

38  
39 Council President Perez,  
40 You can have a seat.

41  
42 Councilmember Leventhal  
43 Mr. Bolton, you're a witness.



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1  
2 Reggie Jetter,  
3 Yeah, yeah, have a seat. Mr. Jetter. How you doing, Reggie? Good. Good  
4 Afternoon, my name is Reginald Jetter and I'm speaking today on behalf of the  
5 County Executive, Douglas Duncan, in support of the proposed Zoning Text  
6 Amendment number 05-14 sign ordinance. The intent of the ZTA is to eliminate  
7 the permit requirement for limited duration signs on private property. The  
8 proposed ZTA...

9  
10 Council President Perez,  
11 Are you on Bill 05-13.

12  
13 Reggie Jetter,  
14 I am 14, actually I'm going to speak on two, but I -- you want me to start on...

15  
16 Council President Perez,  
17 No, if you can to them both together that would save us a little bit of time. That  
18 works for me.

19  
20 Multiple Speakers  
21 We're doing 14.

22  
23 Council President Perez,  
24 Are you 14? I only had -- with a minute, are you 14?

25  
26 Unidentified  
27 Yes.

28  
29 Council President Perez,  
30 We only had 3 witnesses listed on 14. They're number 16.

31  
32 Councilmember Floreen,  
33 Our 14, number 16.

34  
35 Council President Perez,  
36 Different bill.

37  
38 Councilmember Floreen,  
39 Everyone's right.

40  
41 Council President Perez,  
42 Everybody is right and you'll get your day in court, okay?





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1 Reggie Jetter,  
2 You want me sign on 14 or 13?

3  
4 Council President Perez,  
5 We are on the agenda item 14, zoning text amendment 05-13. Sign review fees.

6  
7 Reggie Jetter,  
8 Right, okay, I'm with you there. Okay, the intent of the proposed ZTA...

9  
10 Unidentified  
11 Are you Reggie Jetter?

12  
13 Council President Perez,  
14 Yes.

15  
16 Reggie Jetter,  
17 Jetter, two Ts. The intent of the proposed ZTA is to allow the Department of  
18 Permitting Services to waive a sign permit application fees for nonprofit  
19 organizations that will use the sign only for its own activities. The Department of  
20 Permitting Services that does not currently track the number of signed permits  
21 issued to nonprofit organizations, however DPS issues an average of 443 sign  
22 permits per year, 32 limited duration sign permits per year, and 50 sign variances  
23 per year. Assuming 10% of the sign permits were issued to nonprofit  
24 organizations, this DPS would waive \$12,573 per year. DPS was established as  
25 an enterprise fund which is to be self-supporting, waiving fees for nonprofit  
26 organizations -- agencies would reduce the revenues received by DPS and set a  
27 precedent that defeats the premise of an enterprise fund. The approval of this  
28 ZTA and similar waivers would weaken the self-supporting requirement of the  
29 enterprise fund and required DPS to offset the lost fees either by increasing other  
30 fees or through a transfer from the General Fund. There are two areas the need  
31 clarification for enforcement purposes, the proposed ZTA states that the director  
32 may waive or reduce all required fees. There are no standards provided as to  
33 when the director should waive or reduce required fees as provided by other fees  
34 such as those listed for impact taxes. The Department and applicants require a  
35 standard to follow for the equitable assessment of fees. Also a definition for non-  
36 profit organizations should be included in the ZTA. And that concludes my  
37 remarks on the -- 05-13. Do you want me to go to 14 now or...okay.

38  
39 Council President Perez,  
40 05-14? Okay.

41  
42 Reggie Jetter,

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1 Right, the intent of the ZTA is to eliminate the permit requirement for limited  
2 duration signs on private property. The proposed ZTA accomplishes this  
3 purpose, however technical changes are required to reflect the Department of  
4 Permitting Services' current practice of issuing limited duration signs in the right  
5 of way. We recommend that the Council reinstate the following language in  
6 section 59F 5.3, requirements for a limited duration sign in the public right of way.  
7 Each side approved by the permit must display and have affixed to the sign  
8 information in a format as required by the director, including the date of expiration  
9 of the permit. A permit is issued for one year and may be renewed annually. A  
10 limited duration sign may be relocated upon approval by the director, and  
11 application for limited duration sign permit must include a description of the sign  
12 indicating the number, size, shape, dimensions, and colors of the signs and the  
13 time and day of the week during which the sign will be displayed. And you have  
14 the rest of mine. We have the rest. Okay, Greg. All right.

15  
16 Council President Perez,  
17 Always a pleasure.

18  
19 Greg Russ,  
20 Thank you, Mr. President. For the record, Greg Russ from Montgomery County  
21 Planning Board. I also will speak to both ZTAs, 05-13 and 14. First under both  
22 scenarios, 05-14 and 13, the Planning Board recommends deferral. For 05-13  
23 the Planning Board believes that additional information elaborating on the scope  
24 and intended applicability of the Zoning Text Amendment is necessary in order to  
25 assess the impacts of the proposal. The Board believes the proposed language  
26 does not clearly delineate what types of activities the sign waiver would be used  
27 for, whether it be for special or all activities, or for what types of signage the  
28 permit fees could be waived or reduced, whether it be limited duration or  
29 permanent signs. Further, the Board questions whether the proposed legislation  
30 could or should also apply to civic or other community organizations. For the  
31 Zoning Text Amendment, 05-14, again the Planning Board recommends deferral.  
32 The Planning Board is in agreement with the sponsor's goal to eliminate the  
33 limited duration permit requirement for political signs, but believes that the  
34 legislation as submitted too broad in its applicability. The Zoning Text  
35 Amendment proposes to eliminate the permit requirement for limited duration  
36 signs on private property only. The permit requirement would continue to be in  
37 effect for signs proposed in public rights of way. The Board is concerned with the  
38 unintended consequences of the proposed Text Amendment such as the  
39 elimination of the time frame for removal of a sign and the exclusion of a  
40 mechanism for establishing an installation date. That is especially for the signs  
41 that are of a commercial nature and are located on residential lots. As such, the  
42 Board believes that the scope of the legislation could result in additional



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1 enforcement concerns for the Department of Permitting Services. Thank you for  
2 your time.

3  
4 Council President Perez,  
5 Okay, Mr. Bolton.

6  
7 Paul Bolton,  
8 Good afternoon, sir, and ladies and gentlemen on the County Council. My name  
9 is Paul Bolton, and I'm the Vice President of the Olney Lions Club, and this issue  
10 is very important to us because in Olney there's signs from the Rotary Club, there  
11 are signs from the Kiwanis, but there's no Lions Club signs. Back in May I went to  
12 try to get -- do the right thing, get permits, find out what was needed to put a sign  
13 up, and I found out that each sign in Montgomery County cost \$225.50 per sign.  
14 Our club cannot afford that in our administrative budget. I had a chance to meet  
15 Mr. Leventhal and I wrote him a letter which you all have a copy which pretty  
16 much summarizes the issues here. I was rather selfish and narrow in my scope. I  
17 wanted a waiver or reduced fees for my club. Mr. Leventhal saw wiser and more  
18 broadly and saw the problem of other nonprofit organizations and I appreciate  
19 that and your staff. The thing about the money. Now, I see why it is so high,  
20 because you're trying to make this a cash cow. Unfortunately when this  
21 legislation regulations were done in the year 2000, nonprofits were not  
22 considered. They need to be considered. Because \$225 is, as the Damascus  
23 Club said, is outrageous. And to give you an example and put it in perspective I  
24 contacted Prince George's County and Howard County. Their fees were  
25 permanent signs on commercial property, is \$25 and \$50 respectively. That is  
26 absolutely way out of line. The budget we have in our clubs alone -- in our club  
27 alone is about \$17,000, which goes back for good works in the County. The  
28 Kiwanis Clubs, the Rotary Clubs, and other Lions Clubs in Montgomery County,  
29 which represent a lot of people, does the same thing, it is a nonprofit. We can't  
30 afford \$500 for two signs. So I respectfully request that money be reallocated  
31 somewhere else and due consideration be given to people, the little guys like  
32 ourselves that are public service trying to help the community and save us a few  
33 dollars. And again, thank you, Mr. Leventhal, thank you for your time. Okay, there  
34 are no questions.

35  
36 Councilmember Leventhal,  
37 Can I just...

38  
39 Council President Perez,  
40 Oh, no, yeah...

41  
42 Councilmember Leventhal,



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1 I just want to, of course, thank Mr. Bolton for coming, it is his initiative -- at his  
2 initiative I introduced this and would look forward to working with the PHED  
3 committee to address some of the questions of clarity of instruction to DPS, but I  
4 certainly appreciate the Lions Club advocacy for this and I do agree that the  
5 charge \$225 per sign, if you're simply having a church supper or bingo or chicken  
6 dinner or that kind of thing might take away all of the benefits that you would get  
7 from the event. Some of these events don't raise more than a few hundred  
8 dollars.

9  
10 Council President Perez,

11 Thank you. Thank you for your testimony. Agenda item 15, a public hearing on  
12 Bill 3205, contracts and procurement which would establish a threshold that must  
13 be met before soliciting or awarding certain contracts for services if the contract  
14 will have an adverse effect on certain County -- public employees, certain --  
15 require certain contracting actions to be subject to collective bargaining, require  
16 certain County departments and CAO to take certain actions and generally  
17 amend the law regarding contracts and procurement. A MFP Committee work  
18 session is tentatively scheduled for December 5th at 3:30. Persons wishing to  
19 submit additional information to do so by close of business November 18th. Mr.  
20 Adler, I believe, are you -- you are on the list as testifying. And Mr. Stewart, come  
21 and join us. It's Stewart with an "S"? Okay. Yes, oh, very well, good. Always a  
22 pleasure.

23  
24 Unidentified

25 ...Lipitor.

26  
27 Council President Perez,  
28 Mr. [Leah].

29  
30 Councilmember Praisner,  
31 Not you...

32  
33 Council President Perez,  
34 Yeah, whenever you're -- other one.

35  
36 Joseph Adler,

37 Okay, thank you, Mr. President. We have -- well, this -- my name is Joe Adler,  
38 Director of Office of Human Resources for Montgomery County and I'm here to  
39 speak in support of Bill 3205. I would like to summarize our testimony because I  
40 think more will be done at the public hearing but that this was -- this legislation,  
41 introduced by Councilman Leventhal, we think goes -- it protects the executive  
42 branch's ability to contract out at the same time it offers some employee  
43 protections, it is patterned after a state legislation that passed in the mid '80s and



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1 this is a compromise between what the County had wanted and what the union  
2 wanted. The union's testimony will show that in other jurisdictions there is an  
3 outright ban on contracting out. In other words, at any time at the bargaining unit  
4 work involved, the jurisdiction cannot contract out. What this bill does, it goes a  
5 middle ground that the jurisdiction can still contract out provided that there is  
6 some documented savings in the process. So we believe that it protects the  
7 County's right to contract out and protects the employee's positions if we cannot  
8 show that there is going to be at least 25% savings. And for those reasons we  
9 support Bill 3205 and would like to see it passed. Thank you.

10  
11 Council President Perez,  
12 Thank you, Mr. Stewart? If you could hit the button there.

13  
14 Bob Stewart,  
15 Pardon? Okay, thank you very much. Public sector job loss due to privatization  
16 and/or contracting out is an issue with which our union has had to deal on  
17 several occasions over the years. Although it has not been an issue for a few  
18 years we know that in times of economic downturn it will most certainly return as  
19 a threat to our members' job security and to the resulting loss of morale that such  
20 actions cause. This Bill we feel strikes a middle ground -- balance between an  
21 employer's unrestrained ability to inflict dramatic job loss through the use of low  
22 wage/no benefit contractors and an outright ban on contracting out by law or by  
23 union negotiated contract provisions. This Bill is actually based on the Maryland  
24 Service Contract Act which has been law in the state government for many  
25 years. Labor agreements in the following jurisdictions either prohibit the  
26 contracting out or privatization of bargaining unit work or prohibit the layoff of  
27 bargaining unit members as a result of contracting out: Anne Arundel County,  
28 WMATA, City of Takoma Park and Prince George's County. As far as the general  
29 explanation of the bill, the Bill requires certain procedures be followed to ensure  
30 uniformity and consistency and also requires certain thresholds be met before  
31 the CAO can authorize a contract for service that displaces bargaining unit work.  
32 Contracts must strive to achieve at least 25% savings from current expenditures,  
33 displacing employees and bringing in a vendor is difficult for all concerned and it  
34 can result in temporary service disruptions as well as causing anxiety for the  
35 employees providing the service. Having a 25% savings requirement serves to  
36 avoid having to go through this upheaval if the savings are minimal, i.e. below  
37 25%. Agencies wishing to contract out must first ascertain if the targeted savings  
38 can be achieved by reorganization or a reprioritization. Before employees are  
39 potentially displaced it makes sense from both a management perspective and  
40 from an employee protection perspective to determine if savings can be achieved  
41 internally. Many times, employees performing the service have valid ideas and  
42 suggestions for service improvement and this bill is intended to make sure that  
43 employee and union ideas for service efficiencies are solicited and evaluated.



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1 The Bill does not prohibit contracting out, rather it sets up requirements for  
2 achieving savings and assisting affected employees. The Bill is prospective only  
3 and does not include any existing contract for service, and small contracts are  
4 excluded. Thank you.

5  
6 Council President Perez,  
7 Okay, there are no questions. Thank you for your testimony. Agenda item  
8 number 16. This is a public hearing on Zoning Text Amendment 05-14, which  
9 would amend the zoning ordinance to eliminate the permit requirement for limited  
10 duration signs, generally amend provisions relating to limited duration signs,  
11 persons wishing to submit additional testimony should do so before COB,  
12 November 15th. The PHED Committee work session will be set at a later date.  
13 We have four speakers, Nancy McCloskey, Mike Mage, Anne Zeliaskov...

14  
15 Anne Zeliaskov,  
16 Zeliaskov. If I could go after Nancy, that would be...we're on the same topic.

17  
18 Council President Perez,  
19 ...and Stewart Rochester. Okay, well, why doesn't Mike go first then?

20  
21 Anne Zeliaskov,  
22 Thank you.

23  
24 Council President Perez,  
25 Mike? Yeah.

26  
27 Mike Mage,  
28 Thank you, my name is Mike Mage, I live at 7008 Wilson Lane in Bethesda. On  
29 behalf of the Montgomery County chapter of the ACLU, I want to congratulate  
30 Councilmembers Dennis and Perez for promptly introducing Zoning Text  
31 Amendment 05-14. This succinct amendment eliminates the constitution --  
32 unconstitutional permit and fee requirement for county residents who wish to  
33 exercise their free speech rights in the form of signs on their own property. I want  
34 to congratulate County Attorney Thompson for cooperating with the Council in  
35 the drafting of this amendment. Also, I would like to call your attention to the  
36 memorandum from Mr. Wilson for this item. In it you will find the September 15th  
37 letter from Maryland ACLU staff attorney Richard Griffiths to Mr. Thompson. This  
38 letter has a detailed discussion of the constitutional issues involved and citations  
39 to the relevant court cases and rulings. The need for this amendment can be  
40 summarized by two passages from Supreme Court opinions cited in that letter,  
41 and let me add parenthetically, these decisions have no ambiguity, unlike the  
42 situation in your first hearing this afternoon. First, a person cannot be compelled  
43 to purchase through a license fee or tax the privilege freely granted by this



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1 Constitution. And the second, "It is offensive, not only to the values protected by  
2 the First Amendment, but to the very notion of a free society that in the context of  
3 everyday public discourse a citizen must first inform the government of her desire  
4 to speak to her neighbors and then to obtain a permit to do so." I would add  
5 parenthetically, I heard Mr. Russ from the Planning Board talk, and I would say  
6 that perhaps it's an intended consequence of the proposed text amendment, not  
7 an unintended consequence that there is an elimination of a time frame. I hope  
8 the Council will pass this amendment properly and I will be happy to respond to  
9 your questions. Thank you.

10  
11 Council President Perez,  
12 Okay, Stewart, I'll have you go last, if that is okay. And who -- you wanted to go  
13 first of the two of you. Sure, no problem. Okay, Ms. McCloskey, I guess.

14  
15 Nancy McCloskey,  
16 Hi, I'm Nancy McCloskey.

17  
18 Council President Perez,  
19 If you could hit your button there if it's not been...

20  
21 Nancy McCloskey,  
22 Oh, right, I'm Nancy McCloskey. You know me. I am one of those pesky  
23 neighbors. The ones that keep bothering people at Parks and Planning and  
24 Department of Permitting Services and you. We're the ones that keep -- you keep  
25 reading about in the Washington Post, there are a lot of us, we're everywhere, in  
26 Clarksburg, in Green Acres, in Maplewood, and Brookdale. Nobody wants to  
27 listen to us. We get ignored, sometimes for years, and then it turns out we were  
28 right and, oops, it is too late to do anything except issue a stop work order when  
29 the houses are almost finished. We try to get things done fairly but often fail. And  
30 why? Because no one is listening. We don't have big money. We are not  
31 developers and yes, some of us recently were so frustrated we put up signs and  
32 they got some attention. From the developer there were aimed at. He didn't like  
33 them. Then from the Department of Permitting Services that had received an  
34 anonymous complaint about the signs. They were out in our neighborhood so  
35 fast telling us we had to take our signs down, you wouldn't believe it. Now, that  
36 was efficiency. The same people that are tasked with watching over the legality  
37 of home building in the County, several of us in Brookdale neighborhood called  
38 those same people a couple weeks ago about possible irregularities in the  
39 building of a huge home at 4703 Overbrook Road. We haven't heard a peep out  
40 of them about our complete yet, but the signs, they got immediate attention. And  
41 my point, people should be allowed the right of placing opinion signs on their  
42 private property. When no one is listening it is an important forum, and selective  
43 harassment of those with inconvenient political views based on the current 30-



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1 day sign law in effect in this County is not constitutional. That is why we had to  
2 call the ACLU. The sign law now in effect allows blatant and nonconstitutional  
3 harassment of people based on their political views. It is not applied uniformly or  
4 fairly. It needs to be changed so that all people are allowed to voice their  
5 opinions on their private property whether other people agree with those opinions  
6 or not. And it needs to be fixed so that citizens can always voice their views  
7 without paying for the right and having someone else mull over their message  
8 while deciding if a permit will be granted.

9  
10 Council President Perez,

11 Thank you, Ms. Zeliazkov, did you want to take three minutes as well?

12  
13 Anne Zeliazkov,

14 Yes. I'm Anne Zeliazkov and I am going to continue testimony about our  
15 experience with the limited duration sign law in Brookdale. The law needs to be  
16 fixed. People need to be able to voice their views for as long as they choose.  
17 Thirty days, six months, a year, and more. There should be no time limit on  
18 freedom of speech. In America we constantly tell people all over the world we  
19 have freedom of speech, period. Our signs on private property voiced opposition  
20 to huge homes being built on tiny lots in historic neighborhoods. We thank you  
21 very much for finally voting in the 35-foot height restriction on residential  
22 buildings that will save many from our unfortunate fate. Despite our entreaties to  
23 you, however, we in Brookdale will not be protected from a 4 story, 42-foot tall  
24 monster going up with 7-foot side setbacks in our neighborhood. At a public  
25 hearing on ZTA 03-27 in September we presented a petition signed by over 200  
26 people asking for protection from you. We were given three minutes to speak.  
27 We will be looking at the "McMansion" for 30 years. We want you to have to look  
28 at our signs that voice opposition for the same amount of time. Our signs caused  
29 no damage to the neighborhood. The house, on the other hand, will cover over  
30 all green spaces and permeable services and block all sunshine to neighboring  
31 homes forever. This is far more damaging to a neighborhood than a sign that  
32 reflects the inalienable right of freedom to speak. Please amend a limited  
33 duration sign law to a limit -- any time limit or application process for free speech  
34 signs before it is ruled unconstitutional. And make Montgomery County law  
35 compatible with the Constitution of the United States.

36  
37 Councilmember Leventhal,

38 Thank you.

39  
40 Anne Zeliazkov,

41 Thank you.

42  
43 Councilmember Leventhal,





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1 Mr. Mage?

2  
3 Mike Mage,  
4 Yes, sir?

5  
6 Council President Perez,  
7 Oh, we already -- oh, Mr. Rochester's next. I'm sorry -- I'm a little... Okay, go  
8 ahead, Stewart Rochester, go ahead.

9  
10 Stewart Rochester,  
11 Good afternoon, my name is Stewart Rochester, speaking on behalf of the serial  
12 activists in the county. This is a little bit of a stretch for me, I don't normally to  
13 signs. I obviously I have to be too much time on my hands, but I wouldn't be here  
14 if I did not feel this legislation was ill-advised, and for perhaps -- for especially  
15 many other areas of the County poses some serious issues and questions. The  
16 change in the sign ordinance may help the good citizens of Chevy Chase  
17 express their piece and advocacies, but for many communities in the County  
18 already afflicted with sign clutter I cannot think of a single more gratuitous, if not  
19 perverse, measure. I have a great deal of respect for the sponsors of the  
20 amendment but I don't understand why you accept the ACLU's arbitrary or  
21 arguable bar here, yet challenge to the FDA on a matter that you say is not set of  
22 law. And there's a good deal of ambiguity with all due respect to the gentleman to  
23 my right. Always ambiguity in balancing public and private rights and interests in  
24 these matters. For the life of me I do not understand how a nonpermanent sign  
25 may not become permanent wants to eliminate any fee, penalty, deterrent or  
26 indeed any regulation that prevents or inhibits the property owner if he chooses  
27 to leave it standing. If by nonpermanent you mean not physically riveted onto a  
28 building or a pole, then state it as such but do not use the designation  
29 nonpermanent went under the revised ordinance we would be removing any  
30 specified duration, and unless I'm missing something, the sign could be left  
31 standing in a residential zone for a year, 10 years, or 20 years, and we're not  
32 talking merely semantics, of course. Imagine the cumulative affect as a  
33 longstanding sign, free Clarksburg, death to the ICC, et cetera, fades, remains up  
34 and is joined possibly by other signs of month on the property or along the block,  
35 over time creating the potential for a running eyesore on the residential  
36 landscape similar to the rows of bumper stickers despite by advocacy happy  
37 motorists in their vehicles. Further what in the revised ordinance would prevent a  
38 commercial entity from renting sign space on an annual basis on a residential  
39 property or a strapped homeowner from renting out advertising space? Or, in the  
40 example I just cited, a resident with multiple causes and attention deficit disorder  
41 from "flamingoing" his lawn up to 10 square feet with messages on a weekly  
42 basis? What would prevent me from placing permanently on my property a sign  
43 that says "Council annoyance for hire" for example? I honestly hope you rethink it



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1 in terms of a balancing of interests, the balancing the aesthetic factor, the safety  
2 factor, a lot of these signs do, in fact, distract drivers, and the effect on property  
3 values this would have on property values in certain portions of the County.

4 Thank you.

5  
6 Council President Perez,  
7 Ms. Floreen.

8  
9 Councilmember Floreen,  
10 Thank you, I have a question for the ACLU. As you know, the current rule is it is  
11 okay, you can have a sign but you have to pay a fee, it's \$39 or something like  
12 that. Is it the ACLU's a view that that -- and it's evenly applied to politicians,  
13 advocates, people of every description -- or at least should be, it's intended to be,  
14 and that's what the legislation calls for -- is that fundamental issue what you are  
15 concerned with?

16  
17 Mike Mage,  
18 Yeah, the fee is one of two issues...

19  
20 Councilmember Praisner,  
21 Your mic's not on.

22  
23 Councilmember Floreen,  
24 Yeah, press the button, there.

25  
26 Mike Mage,  
27 I'm sorry, the fee is one of two issues. Now, I'm not a lawyer, I am relying upon  
28 the staff attorney here who assures me and I have read the Supreme Court  
29 opinion that the fee is just unconstitutional for free speech activities. We're talking  
30 about noncommercial signs here.

31  
32 Councilmember Floreen,  
33 Is the ACLU -- thanks for clarifying you're not on the legal staff -- the ACLU is  
34 taking the view that any restriction on signs, if it's applied without political  
35 distinctions, or commercial distinctions, would be -- any restriction, it would be  
36 unconstitutional? Size?

37  
38 Mike Mage,  
39 Which kind of restrictions are you talking about?

40  
41 Councilmember Floreen,  
42 Well, what the ACLU is advancing, that it's a restriction on free speech? I want to  
43 sell shoes, I put up a sign.



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1  
2 Mike Mage,  
3 That would be commercial and that is different. We're not talking about  
4 commercial speech here.  
5

6 Councilmember Floreen,  
7 Is the ACLU's suggesting that Montgomery County wants to advance all -- every  
8 member of the Council to get their political signs out now? Because this would  
9 permit that.  
10

11 Mike Mage,  
12 If someone wanted to say "I support Nancy Floreen" now, they could do it now.  
13 They would not have to wait until 30 days before an election.  
14

15 Councilmember Floreen,  
16 And they would not have to take it down?  
17

18 Mike Mage,  
19 They would not have to take it down, they could indicate their...  
20

21 Councilmember Floreen,  
22 And there would be no incentive to worry about that without a fee? That is the  
23 challenge that, of course, we are faced with. It is not the advocacy of points of  
24 view, it is how do you address the long-term clutter of the landscape in a way that  
25 is not defined by particular perspectives about an issue. And your view is that  
26 any restriction is unacceptable.  
27

28 Mike Mage,  
29 My views is -- I am not talking about -- I think the legislation does it quite sensibly  
30 in the amendment where it says if it requires structural or electric permits, those  
31 can still be required but we are talking about a little sign which you put on your  
32 property.  
33

34 Councilmember Floreen,  
35 Sure, if you folks would like to comment, sure.  
36

37 Anne Zeliaskov,  
38 I'm sorry, someone in our neighborhood called the Department of Permitting  
39 Services about some 1-800-GOT-JUNK signs that were on River Road and she  
40 called and called and called. And no inspector ever came out to take those signs  
41 away, but as soon as there was an anonymous complaint about a political view,  
42 he was out there very quickly. So that is not uniform application. If you were



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1 going to actually apply it uniformly, you would have inspectors doing nothing but  
2 going around and picking up...

3  
4 Councilmember Floreen,  
5 So, is it your view then, that we should have no restrictions at all on these kinds  
6 of signs? I mean not just, you know, as Mr. Rochester...

7  
8 Anne Zeliaskov,  
9 1-800-GOT-JUNK is nothing like a political view, it's very clear that it's completely  
10 different.

11  
12 Council President Perez,  
13 You can't regulate speech whether it's commercial or political, you can't.

14  
15 Councilmember Leventhal,  
16 Look, look, if you agree with the premise of this bill that you may not regulate a  
17 message on the basis of time, and then you also would make the same case that  
18 there's no difference between "Vote for Nancy Floreen" and 1-800-GOT-JUNK,  
19 they're the same.

20  
21 Anne Zeliaskov,  
22 But there was according to the...

23  
24 Councilmember Floreen,  
25 Excuse me, Mr. Leventhal!

26  
27 Unidentified  
28 1-800-GOT-NANCY.

29  
30 Councilmember Leventhal,  
31 I'm just seeing if you are listening, Nancy.

32  
33 Anne Zeliaskov,  
34 But the DPS made the distinction.

35  
36 Nancy McCloskey,  
37 No they didn't.

38  
39 Councilmember Floreen,  
40 Well, whatever they did those signs should have been removed. But the question  
41 really is the issue of what we permit in the landscape in the long run. If you have  
42 to think about forking over whatever the fee is for you to make your political  
43 statement, you are going to think, "Well, maybe I'm not going to want it up for my



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1 entire lifetime," or in an informal way. But you are not precluded from doing that.  
2 And this is one of the challenges for us. Not that you have been fairly treated, but  
3 how do we fairly treat everyone who has concerns about signs and the  
4 landscape? And when we asked about actually buying the permit there was no  
5 indication that there was any time limit. You know, they could have held it for a  
6 few weeks, for a few months, there was no time limit on when they had to tell you  
7 that it was okay. They would look at this sign, they would think about it, it wasn't  
8 as if you paid your \$30 and you could get your permit. That was not the  
9 impression I got.

10  
11 Nancy McCloskey,  
12 If we were to go to Permitting Services to request a sign that would be a  
13 permanent sign is what Anne is talking about. Then we had to go through  
14 somebody who would look at it and say "Well, you know, these women have  
15 caused some problems already on Overbrook Road and our developer didn't like  
16 that so we are not going to have a sign done, we're not going to okay the sign."

17  
18 Councilmember Floreen,  
19 But are you saying that having a modest fee with an immediate resolution, I  
20 mean, if you pay your dollar you get your signs. Are you saying that is offensive  
21 to you?

22  
23 Nancy McCloskey,  
24 No, I don't think that's effective at all.

25  
26 Councilmember Floreen,  
27 Offensive, I meant. So you would not support any fee for anybody?

28  
29 Nancy McCloskey,  
30 Yes, I think it's offensive. Yes, absolutely, absolutely. A person came into our  
31 neighborhood, bought property, didn't care about us at all, said I will do with this  
32 property as I wish, I will build the size house I want, I don't care if they are happy  
33 with us at all. So we said "Okay, he won't deal with us, so we will deal with him"  
34 and we got our signs and put them up. It's -- I think it is pretty fair. I think it is very  
35 fair.

36  
37 Councilmember Floreen,  
38 Okay, thank you. Mr. Rochester, you wanted...

39  
40 Stewart Rochester,  
41 I wish I had the luxury to worry about this stuff, the way my neighbors here do.  
42 This is a balancing act, okay, there is -- this doesn't rise to the level of yelling fire  
43 in a crowded theater but there are issues definitely in terms of the enjoyment of --



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1 other people in joining their property, the right to enjoy their property, the quality  
2 of life, safety issues where signs may be located at an intersection on a piece of  
3 unprivate property, many other issues. And so surely we can come up with some  
4 kind of a remedy here that addresses your concern, and Tom's concern, and Mr.  
5 Denis' concern, but at the same time balances some of these other real concerns  
6 on the other side of the ledger. I just think we are doing something that is over  
7 the top in terms of its not providing for any kind of constraints or specificity at all  
8 with regard to when the sign eventually does has to come down.

9  
10 Councilmember Floreen,  
11 Okay, thanks, everybody.

12  
13 Council President Perez,  
14 Okay, Mr. Denis was next.

15  
16 Councilmember Denis,  
17 Yeah, thank you, Mr. President, I just want to make a comment or an  
18 observation. Nancy, if you want to...

19  
20 Council President Perez,  
21 Nancy?

22  
23 Councilmember Denis,  
24 First I want to thank you for your advocacy and your neighbors for raising the  
25 issue, for circulating the petition, and as I learned today apparently for contacting  
26 the ACLU. And it's much appreciated. I put the bill in because I fully agreed with  
27 the ACLU's opinion, not only from legal standpoint, but from a policy standpoint.  
28 To me it is very clear, democracy can be messy sometimes, but it goes with the  
29 territory. It just seems to me we have to abide by what the Constitution is highly  
30 likely to tell us if this matter goes to court. So I think that it is clear from my  
31 reading of this from other people's reading of it and also from the policy issues  
32 that were articulated by this particular situation that we really have no alternative  
33 but more so than that, I think that it's -- the situation has helped to highlight what  
34 has been allowed to continue for a long period of time simply because there  
35 wasn't a situation and a complaint that led to this opinion. And so to me, it is clear  
36 cut and there are certainly limitations, one of the thicker laws we have on the  
37 books says you can't put political signs on trees because that was done a  
38 number of years ago. So clearly there are reasonable limitations that could apply  
39 but I think that the limitation here should not. And just a reference, when I visited  
40 Pompeii and Herculaneum a couple of years ago I noticed that when Vesuvius  
41 exploded that they were in the middle of a campaign and there were political  
42 signs, graffiti on the walls. The custom was to put them up and after the election  
43 they whitewashed them and then they put them up again for the next election



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1 cycle. Some of them is what you could characterize as negative campaigning as  
2 a matter of fact. But it just seems to me that --

3  
4 Unidentified  
5 You have Western Civilization.

6  
7 Councilmember Denis,  
8 But it seems to me that if you could have it at the dawn of a democratic form of  
9 government that you should be able to express yourself at the present time with  
10 the means at our disposal. And I think it would be a shame if you were not, and  
11 that is basically why I put the bill in.

12  
13 Multiple Speakers  
14 Thank you.

15  
16 Council President Perez,  
17 Okay, no, we are not done, you keep gettin' up. No, we've got -- this triggered a...

18  
19 Unidentified  
20 We haven't seen enough of your face., Stewart.

21  
22 Council President Perez,  
23 Mr. Andrews was next, actually. There's Mr. Rumsfeld.

24  
25 Multiple Speakers  
26 [LAUGHTER]

27  
28 Councilmember Andrews,  
29 Just going to make the point that the Supreme Court has made distinctions  
30 between commercial speech and political speech, and political speech is much  
31 more protected, and while there can be reasonable limitations and this bill has  
32 one in that the sign can't require a building or electrical permit, it's not, you know,  
33 that is a difference. But there is clearly a difference in what is allowed under  
34 commercial speech and political speech, and political speech is more protected  
35 And the Supreme Court in the opinion -- one of the opinions cited by the ACLU  
36 took in to account the fact that residential signs are an unusually cheap and  
37 convenient form of communication for people to reach other people. That is a  
38 value that is important to protect in our political discourse.

39  
40 Stewart Rochester,  
41 I just say the way the proposed revision of the ordinance is written, as I  
42 understand it, it would be allowing a commercial sign on private property. If the  
43 property owner wanted to put up a sign the said "car wash straight ahead," which



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1 is what we're gonna end up with in our area, it would be allowable under your  
2 proposed amendment.

3  
4 Councilmember Andrews,  
5 I think it is important then to get some language from the attorneys about how to  
6 make the distinction between political and commercial signs.

7  
8 Councilmember Denis,  
9 I'd like the ACLU to work with us in our staff in crafting these amendments to  
10 make sure that we're on the right side of the Constitution and the First  
11 Amendment.

12  
13 Council President Perez,  
14 Mr. Silverman was next, then Ms. Praisner, then we'll move on to the next  
15 hearing.

16  
17 Councilmember Silverman,  
18 Yeah, thank you, Mr. President, I was just going to raise the same issue. I'm not  
19 sure who is staffing this but let's make sure we have an amendment to this that  
20 doesn't allow 1-800-GOT-JUNK to be up unfettered. My understanding and the  
21 opinion of the ACLU that references here talks about residential issue advocacy  
22 signs. It doesn't talk about commercial signs.

23  
24 Mike Faden  
25 I believe the law already makes that kind of distinction but we will follow through.

26  
27 Councilmember Silverman,  
28 Well, I'm just saying let's make sure that whenever we are doing in this Zoning  
29 Text Amendment that has been introduced, make sure that we do not  
30 inadvertently end up permitting unfettered commercial signs. That's not what this  
31 is about and I would be terribly concerned if we had open season on  
32 commercial signs. Whether somebody keeps up a Vote For Nancy sign for more  
33 than 30 days, who knows?

34  
35 Council President Perez,  
36 Mr. -- I'm sorry, Ms. Praisner was next.

37  
38 Councilmember Praisner,  
39 Well, having sat here through the sign ordinance change and the legislation I  
40 think it would be helpful. We may have problems with implementation, but I also  
41 think we need to have a reminder of what the -- how the legislation was crafted to  
42 be content neutral and the rationale and how we work through that issue. I  
43 remember Mr. Hanna sitting here spending a lot of time talking about the issue of





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1 political campaign signs and how we deal with those things. And how we make  
2 sure that signs come down as well as when they go up, and to the extent that  
3 folks have identified problems with implementation at the Department of  
4 Programming Services, I think those issues we need to talk about, but I don't  
5 want to legislate in a way that generates another problem that we then have to  
6 turn around and legislate for as well. If there is an implementation issue I would  
7 like to look at that too. But -- and I am keeping an open mind but I want to look at  
8 the -- I want to have everybody have the legislation in front of us, what the law  
9 says now before we -- before we make any changes.

10  
11 Council President Perez,

12 Okay, thank you for your testimony. Now you may get up and leave, thank you.  
13 And hurry up before someone puts their light on. Run! Agenda item number 17 is  
14 -- this is a public hearing on expedited Bill 2905, condominiums. I don't use them.  
15 Conversion of rental housing which would modify the rules governing eligibility --  
16 just seeing if people were listening -- for certain extended tenancies when certain  
17 rental housing is converted to condominiums, Rocky, and generally the law  
18 governing conversion of rental housing to condominiums. The PHED Committee  
19 work session will be scheduled at a later date. Persons wishing to submit  
20 additional testimony should do so by COB, November 22nd, there are no  
21 witnesses. Agenda item...

22  
23 Councilmember Praisner,

24 I do have a question and comment. The issue relates to how we structure the  
25 process for allowing the order in which the Department of Housing and  
26 Community Affairs deals with the issue. One of the question is that I had asked  
27 Permitting Services to look at, and DHCA to look at, I guess, not Permitting  
28 Services, need to come back to us with some information, the issue of what  
29 happens if the resident -- if the unit is owned in essence by a nonprofit for the  
30 developmental community, but the resident may change or not have lived there  
31 for the period of time but the ownership and the organization remain, and I am  
32 not sure how this applies and what the DHCA's comments would be on that  
33 factor.

34  
35 Council President Perez,

36 Okay, agenda item 18 is a public hearing on Bill 3305, Silver Spring parking lot  
37 district amendments would modify the boundaries of the Silver Spring Parking  
38 Lot District and generally the law regarding parking lot districts. Transportation  
39 and Environment Committee work session is tentatively set for December 1 at  
40 9:30. Persons wishing to submit additional information should do so by  
41 November 18. One witness, Mr. Dalrymple, you may begin.

42  
43 Bob Dalrymple,



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1 Good afternoon, for the record, Bob Dalrymple with the law firm of Linowes and  
2 Blocher. Representing [Meizel] Development LLC, the managing member of  
3 Metro Plaza joint venture. I am pleased to be part of this distinguished panel of  
4 speakers here.

5  
6 [LAUGHTER]

7  
8 And Mr. [Meizel's] entity owns three parcels of land in the Silver Spring CBD  
9 comprising 63,000 square feet immediately adjacent to Colesville Road and  
10 East/West Highway and South of the Metro red line. It is immediately confronting  
11 the Silver Spring Metro station. This property is zoned CBD-3 and it has  
12 tremendous redevelopment opportunities in excess of 500,000 square feet. This  
13 property was improved about 10 years ago. It was a car rental shop and it was  
14 improved with a couple of retail stores, RiteAid, Kinko's, Starbucks, and Einstein  
15 Bagels, and while that might not seem significant, it in fact really helped to  
16 stabilize the downtown area of Silver Spring, and was, we think, a vital link to the  
17 successful redevelopment that is still being undertaken today. While the PLD  
18 typically tracks the boundaries of the CBDs, the northwest portion of the Silver  
19 Spring CBD has been deleted from the PLD since 1981. This bill would reinstate  
20 this area back into the Silver Spring Parking Lot District and we support this as it  
21 relates to the [Meizel] entity's property. The PLD was first enacted in 1945 as a  
22 means of providing economically self-sufficient parking programs to meet the  
23 demands of the commercial properties in this growing business community and  
24 again it was removed in 1981. We've gone back and looked at the history, it is  
25 somewhat scattered in terms of the rationale for removing it from the PLD, but we  
26 believe there is no sound reason to keep it out to the PLD at this time. The PLD  
27 has always been an economic development measure. It is a critically important  
28 economic development measure for the CBDs, it is used to pool parking for the  
29 various uses within the CBD and it encourages interaction between the sites and  
30 having people park at centralized facilities and to get out and enjoy all the various  
31 uses within the CBD. While the [Meizel] entity has no immediate plans for  
32 redeveloping this property of the reason we are supportive of it and including a  
33 that this point in time, is that it is a long-term horizon for redevelopment,  
34 continued redevelopment of this portion of Silver Spring. We are already finding  
35 the potential large employers who are interested in this site look eight to ten  
36 years in advance for potential relocation opportunities. Again, having this  
37 property within the PLD helps solidify the future of this site, it brings predictability  
38 to the development of this site and the ability to realize the density that is  
39 encouraged with the CBD-3 zoning. There is a letter that I believe has been  
40 submitted from the Silver Spring Chamber of Commerce in support of including  
41 this back into the PLD and we understand other business owners as well will be  
42 submitting letters. We would encourage you to act this point in time to bring this  
43 section of the CBD back into the PLD.



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1  
2 Council President Perez,  
3 Mr. Leventhal.

4  
5 Councilmember Leventhal,  
6 I just want to congratulate Mr. Dalrymple for the passion he brings to this issues  
7 of the PLDs and CBDs. It really moves me and I just -- and I commend him -- I  
8 commend him for his -- the sense of urgency that he brings to this issue.

9  
10 Bob Dalrymple,  
11 And it's fully constitutional.

12  
13 [LAUGHTER]

14  
15 Council President Perez,  
16 Yeah, really. Okay, thank you, Mr. Dalrymple. There are no -- oh, Mr. Andrews.

17  
18 Councilmember Andrews,  
19 You really stood out from the rest of the panel.

20  
21 Bob Dalrymple,  
22 For the first time in my career!

23  
24 Council President Perez,  
25 Okay, next item is an agenda item 19, public hearing on a supplemental  
26 appropriation to the FY06 operating budget of MCPS for the Smaller Learning  
27 Communities Initiative in the amount of \$1.478 million and some change. An  
28 Education Committee work session is set for November 3rd at 10:30 a.m.  
29 Persons wishing to submit additional testimony should do so by the end of this  
30 hearing today. There are no witnesses for this hearing. We did agenda item  
31 number 20, although we need to take action on it. Agenda item 21 is a public  
32 hearing on the supplemental appropriation of the FY06 operating budget of  
33 MCPS for Entrepreneurial Activities Fund in the amount of \$100,000. Action  
34 scheduled following the hearing, there are no witnesses for that. We can vote on  
35 that issue as well. Public hearing on supplemental appropriation is item number  
36 22. Supplemental appropriation to the FY06 operating budget of DPWT for the  
37 Metropolitan Washington Council of Government's compressed natural gas bus  
38 grant in the amount of \$150,000, action scheduled following the hearing, no  
39 witnesses for that hearing. So let's go back, we have 20, 21, and 22 we need to  
40 take votes on. We had the discussion on 20. I did want to underscore something  
41 Ms. Praisner said, which is that this is obviously the first of many and ideally, I  
42 would -- I'd like to avoid doing it piecemeal, but there were some compelling  
43 exigencies as it related to Blair. They have the program up and running and there



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1 was -- the infrastructure is indeed there, but this will be the first of many, I  
2 anticipate, as we replicate this model.

3  
4 Multiple Speakers

5 I move approval, Mr. President. Okay. Second

6  
7 Council President Perez,

8 Moved and seconded, all those in favor? Unanimous among those present, next  
9 item is 21. Mr. Subin, did you want to add anything on this supplemental?

10  
11 Councilmember Subin,

12 No, these are enterprise funds [INAUDIBLE].

13  
14 Council President Perez,

15 I don't think there any questions, all those in favor? Unanimous among those  
16 present. Agenda item 22, Ms. Floreen, did you want to add anything on the, it's a  
17 COG grant fund, I believe, right?

18  
19 Councilmember Floreen,

20 Just to say we are making progress.

21  
22 Council President Perez,

23 All right, okay, all those in favor? Unanimous among those present. Let's turn to  
24 Legislative Session, Day 33, this is the expedited Bill 3105. We had a hearing  
25 earlier today on the prescription drugs. I think the people know the issue and I  
26 sense that we know each other's positions. I know Ms. Floreen had an  
27 amendment she wanted to offer.

28  
29 Councilmember Floreen,

30 Yes, thank you, Mr. President. When we took our focus on this last year or earlier  
31 this year -- no it was last year, we did make it clear that safety was a paramount  
32 concern as well. And what I have offered is an amendment to that you should all  
33 have in your packets, the supplemental package that Mr. Faden provided to  
34 everybody.

35  
36 Michael Faden,

37 And we have more copies of the amendment here, if anybody doesn't have it.

38  
39 Councilmember Floreen,

40 This is basically language from the initial resolution supplemented, I think, by  
41 language from the RFP that went out for the County's solicitation of a Pharmacy  
42 Benefit Manager for lower-cost prescription drugs. And the language provides  
43 that -- would -- this language would be added to just reiterate the Council's



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1 commitment to safety in this initiative, the language provides that each -- that the  
2 Pharmacy Benefit Manager must assure that each medication dispensed under  
3 this benefit is consistent with Federal Food and Drug Administration standards  
4 including manufacturing location, formulation source, and specifications of the  
5 active ingredients, processing methods, manufacturing controls, container  
6 closure system, and appearance. And it also excludes from the initiative any  
7 biomedication. This is what we resolved in our resolution last year and as I  
8 understand it, is not only included in the RFP, but Mr. Faden informs me that  
9 some of this language is in FDA regulations. Isn't that the case, Mr. Faden?

10  
11 Michael Faden,  
12 That is. This language was taken from the Joint County Agency's RFP, which in  
13 turn was patterned on the City of Boston RFP, which in turn was patterned on the  
14 FDA regulations.

15  
16 Councilmember Floreen,  
17 So that is my amendment, Mr. President.

18  
19 Unidentified  
20 Second.

21  
22 Council President Perez,  
23 Moved and seconded, Mr. Subin?

24  
25 Councilmember Subin,  
26 I am going to vote against this amendment. It is a charade. How is the Benefits  
27 Manager going to do this? Are we going to give the Benefits Manager a huge  
28 staff to go and make sure that something is consistent with FDA standards where  
29 the standards are not being adhered to where the manufacturers, or reimporters  
30 or counterfeiters or whoever and whatever else are not meeting those  
31 standards? How's he going to do this, or she going to do this? We are now  
32 holding the Benefits Manager responsible, legally responsible, for the safety of a  
33 product that they are not in a position to guarantee. And right in there "this benefit  
34 is consistent with FDA administration standards." Who is going to make that  
35 determination? FDA is saying they're not. So we just continued the lineup of  
36 those we put at legal risk here.

37  
38 Council President Perez,  
39 Mr. Knapp, did you want to speak to this motion? You had your light on earlier.

40  
41 Councilmember Knapp,  
42 I did actually have a broader statement. I just have two questions. The Pharmacy  
43 Benefit Manager I assume is a County Employee?



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1  
2 Michael Faden,  
3 I believe it will be an outside contractor.

4  
5 Councilmember Knapp,  
6 Shouldn't that be defined?

7  
8 Councilmember Subin,  
9 All those folks do is administer the program. If you are talking about the people  
10 who take the insurance forms and manage the program, that is all they do, so  
11 now we are telling them they have to do something that heretofore they have not  
12 really done for us. They're not equipped to do. And all they do is get paid to  
13 process forms and checks.

14  
15 Council President Perez,  
16 Are you...

17  
18 Councilmember Knapp,  
19 No, and then -- well, so his is not a County employee to our knowledge at this  
20 point? So in the other places where this has been instituted have people  
21 essentially taken on this responsibility...

22  
23 Michael Faden,  
24 I believe that's the case.

25  
26 Councilmember Knapp,  
27 ...in other communities? So they've been willing to sign up for that?

28  
29 Michael Faden,  
30 I believe so.

31  
32 Councilmember Knapp,  
33 Do we know that?

34  
35 Council President Perez,  
36 In Springfield, yeah.

37  
38 Councilmember Subin,  
39 Do we know for sure that other people run their health benefits program the way  
40 the we do? We cited all these places based on, based on, based on, do these  
41 folks run their programs the way we do it?

42  
43 Michael Faden,



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1 As far as I understand it our program -- the RFP the County put out pattern very  
2 closely on the Boston program. I am not sure of the status.

3  
4 Councilmember Subin,  
5 But does Boston have their administrator as a non-government employee?

6  
7 Michael Faden,  
8 Yes, that is the case.

9  
10 Councilmember Subin,  
11 We know that for a fact?

12  
13 Michael Faden,  
14 I believe so.

15  
16 Councilmember Subin,  
17 You believe so. Do we know that for a fact?

18  
19 Michael Faden,  
20 I don't, I will call on...

21  
22 Councilmember Subin,  
23 Okay, that is all I want to know, we don't know that.

24  
25 Steve Farber,  
26 Mr. Subin, Total Care Pharmacy, a Canadian firm, is the PBM for the City of  
27 Boston. It is an outside firm.

28  
29 Councilmember Knapp,  
30 The other question I had was to we have a definition of biomedication? I know  
31 something was included in the resolution, it is another thing to happen in  
32 legislation we have any definition for that anywhere?

33  
34 Michael Faden,  
35 It is not in the bill here.

36  
37 Councilmember Knapp,  
38 Well, I guess that kind of makes it relatively meaningless. Who -- who is  
39 supposed to interpret what it biomedication is?

40  
41 Michael Faden,  
42 In the first instance it would be the Office of Human Resources which would  
43 manage this contract.



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1  
2 Councilmember Knapp,  
3 Good luck, Joe.

4  
5 Council President Perez,  
6 Okay, motion was made and seconded. All those in favor? Mr. Denis, Ms.  
7 Floreen, Mr. Silverman, myself. Mr. Leventhal, Mr. Andrews, opposed, Mr.  
8 Knapp, Mr. Subin. Let me turn to Mr. Knapp before we call for the final reading.

9  
10 Councilmember Knapp,  
11 I realize that the numbers are what the numbers are, and so I am tilting at my  
12 proverbial windmill. But I wanted to at least get some of these points on the  
13 record because we have glossed over a lot of things. Should we be doing  
14 everything in County government to try and reduce the health care costs for our  
15 residents? Undoubtedly. And we have done a lot. We have done the  
16 Montgomery Cares program, Community Pharmacy and those are good  
17 programs and we are addressing the needs of our insured, as many as we can  
18 with that, and hope to do more. There are new technologies that can be utilized  
19 to manage wellness as opposed to just waiting for people to get sick. There are a  
20 lot of things we can and should be doing at the local level. The problem I have  
21 been struggling with this is what problem are we trying to solve with this  
22 legislation, having this debate? And what I keep hearing is that it is cost savings.  
23 And so I -- I am a big fan of looking for cost savings but as I look at the  
24 information we received so far, our largest County employee agency, MCPS, has  
25 gone in and looked to see what types of cost savings would be obtained through  
26 implementing this. And as I look at the documentation they provided the Board,  
27 they had at least three different scenarios: scenario one assuming 5% of eligible  
28 active and retiree prescription purchases, another look at 8%, another 40%. And  
29 they then said that it was optimistic that scenario one, which would be 5%, would  
30 actually be utilized. 5% would save roughly \$154,000, if you could get up to 5%.  
31 We are looking at doing this for the County, with roughly half as many  
32 employees, so presumably our numbers would go in half, at least what OMB's  
33 indicated in the cost analysis they provided to us in legislation will cost us at least  
34 \$50,000 just to get a consultant to administer it. So we're talking about, in a best  
35 case scenario, maybe, saving \$22,000 that didn't include anything that we just  
36 approved in the amendment. So the notion of cost savings appears not be really  
37 be the issue. It is a good idea, believe me, we ought to be looking at lots of ways  
38 to address cost savings, but this doesn't appear to be something that does it.  
39 There have been a lot of other things talked about and I wanted to walk through  
40 some of them. There is this notion that we're doing something that Congress  
41 supports and conceptually that is not wrong, but the reality is those bills that have  
42 either passed various houses of Congress have all looked at directing the FDA to  
43 create a program to look at importation so that FDA would actually monitor the





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1 safety element, and so we're not doing that. We don't have a mechanism to  
2 address safety here in this County so we're not doing the same thing Congress is  
3 doing. Congress has directed and tried to put a safety provision in place. We are  
4 hoping that a Benefits Manager will be able to pull this off. Maybe, maybe not. A  
5 third issue, people have raised this, and Ms. Floreen raised this earlier in the  
6 hearing, you mean Canada's drugs are not safe? The reality is that this isn't --  
7 these drugs are not necessarily coming from Canada. The actual organization,  
8 the Pharmacy Benefit Manager may be in Canada, and they may get some of  
9 those drugs from the Canadian health system, but probably not. They're gonna  
10 get them from where they can get them from. The reality also is there is a limited  
11 supply of drugs going into Canada from various pharmaceutical manufacturers  
12 and Canada has already said numerous times that they're going to take those  
13 drugs and make sure they are available for their residents first. If there's anything  
14 left that the pharmacy -- those people exporting things can access, so much the  
15 better. But we've already seen that that is started to decline. At the same time  
16 this debate has occurred there has also been an increase in counterfeit drugs  
17 throughout the world. And so how those things enter the drug supply through  
18 many mechanisms, but certainly and regulated drugs coming from many other  
19 countries is going to be one of them. What types of drugs presumably are being  
20 counterfeited the most, the very same ones we're looking to bring here, which is  
21 our maintenance drugs. So we necessarily increase the level of liability and  
22 introduce the safety element. I know that's been dismissed out of hand. It is a  
23 real issue. We're not saying that Canada's drugs aren't safe, we're not  
24 necessarily getting our drugs from Canada. We've got to recognize that. The  
25 other issue that has been raised is it is all about politics. It is, just not traditional,  
26 it's not Democrat versus Republican politics. It's we've got FDA. Nobody  
27 necessarily ever defends FDA, they never have. There are a good one to beat up.  
28 I am firmly behind the fact that haven't done things I think they should have.  
29 Pharmaceutical companies also good things to beat up, really good targets, and  
30 unfortunately, some of it's very deserving. But those are good things to go after  
31 and say we are trying to do something for the benefit of the people. We are  
32 standing on the soapbox and saying it is not Democrat versus Republican  
33 politics, but it is certainly about politics. There are many, many other issues that  
34 have been raised that could be refuted, could be addressed, the numbers are  
35 what the numbers are -- at least for this vote. I just think it's important to try and  
36 clarify this. If we want to have a discussion about how we reduce costs for our  
37 employees and for our residents, let's have that discussion. This is something  
38 that forces the health care discussion, and that's good and that's noteworthy and  
39 I laud the sponsors for that, but the reality is from, what I can tell, at least from  
40 everything that's been presented, it is not going to address the problem that we  
41 have identified and so we are potentially putting our residents at risk and I think --  
42 I in good conscience can't vote for that. The other thing is that the end of the day  
43 with this will do is we'll help people in our county who have a good prescription



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1 drug benefit and potentially save them a couple dollars, maybe, and potentially  
2 save us a couple dollars but it doesn't do anything to increase our ability to  
3 provide low-cost drugs to the rest of our residents, and that is the bigger issue we  
4 have got to address. And so I appreciate everyone's intentions, I know the  
5 sentiments of most of my colleagues up here, but I at least want to take the  
6 opportunity to make sure at least those elements got on the record so I  
7 appreciate the time of my colleagues.

8  
9 Council President Perez,  
10 Mr. Subin.

11  
12 Councilmember Subin,  
13 Thank you. Knowing what the vote is going to be on this, I am going to violate the  
14 Leggett rule and not talk for very long here. There are several issues that I need  
15 to keep my conscience clear and not just -- just vote no. Legalities issue, this  
16 isn't; a shady, shaky questionable issue, it's a real issue. The only question is  
17 when is FDA going to act and upon whom are they going to act? And if it is  
18 Montgomery County, right away you're to cut deeply into the cost savings with  
19 the legal costs. It's not going to end there. The whole issue about cost savings is  
20 dubious. It's based on questionable assumptions that certain things are going to  
21 happen and certain patterns of behavior are going to change, and folks are going  
22 to accept higher costs for themselves for these savings to occur. And finally, if  
23 the importation system is safe then as a lawmaking body I think we have the  
24 obligation to approach the people who make the laws on this, this is not -- I hate  
25 to admit -- in our purview. It just isn't, and we should be going to those bodies  
26 that do regulate the policies and the laws on pharmaceuticals and get them to  
27 change. That would be the way to do it. We're making assumptions here, none of  
28 which are good, all of which, if they're wrong, are going to have some serious if  
29 not dire consequences.

30  
31 Council President Perez,  
32 Thank you Mr. Subin, thank you, Mr. Knapp, I appreciate your views and I think  
33 we've had this debate for quite a while. Thank you, Mr. Denis for your leadership  
34 as the lead member on personnel. The issues are out there, reasonable people  
35 can differ, and I believe it's time to move forward. So Madame Clerk, please call  
36 the roll.

37  
38 Clerk  
39 Mr. Denis?

40  
41 Councilmember Denis,  
42 Yes.



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1 Clerk  
2 Ms. Floreen?

3  
4 Councilmember Floreen,  
5 Yes.

6  
7 Clerk  
8 Mr. Subin?

9  
10 Councilmember Subin,  
11 No.

12  
13 Clerk  
14 Mr. Silverman?

15  
16 Councilmember Silverman,  
17 Yes.

18  
19 Clerk  
20 Mr. Knapp?

21  
22 Councilmember Knapp,  
23 No.

24  
25 Clerk  
26 Mr. Andrews?

27  
28 Councilmember Andrews,  
29 Yes.

30  
31 Clerk  
32 Mr. Leventhal?

33  
34 Councilmember Leventhal,  
35 Yes.

36  
37 Clerk  
38 Mr. Perez?

39  
40 Council President Perez,  
41 Yes, bill passes 6-2. I did want to note on item number 20 Ms. Praisner had left  
42 me a note saying she wanted to be okay -- yes on 20, 21, 22. I know she can't --  
43 she's not here for this vote, she would have, she noted that she would have



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1 voted in the affirmative. Let's turn, we're 15 minutes late, or 20 minutes late, but  
2 let's at least begin the discussion, we're going to go 'til 5:00 -- of the annual  
3 growth policy. Let's invite our friends from Park and Planning and the Godfather  
4 of growth, Karl Moritz -- the growth policy that is.

5  
6 Councilmember Silverman,  
7 The Minister of Managing.

8  
9 Council President Perez,  
10 Yes and let's at least begin the discussion. We will obviously take no votes today.  
11 But -- and we will finish by 5:00. And so we can at least frame the discussion.  
12 And let's see what we have...

13  
14 Unidentified  
15 3, 4, 5.

16  
17 Council President Perez,  
18 Yes.

19  
20 Unidentified  
21 No, we've got five.

22  
23 Council President Perez,  
24 No, we've got five. Okay, so let me -- let me begin by -- I know the Chair of the  
25 PHED Committee dealt with some issues and -- do you want to begin, Mr.  
26 Silverman? And then I thought perhaps if Chairman Berlage has any introductory  
27 remarks we want to give him an opportunity to be heard.

28  
29 Councilmember Silverman,  
30 Thank you Mr. President. Just a few opening comments since I know my  
31 colleagues are familiar with the discussion we this two years ago. The purpose of  
32 the Annual Growth Policy to manage growth in Montgomery County. It's not to  
33 stop growth. If we wanted it to stop growth then we would put restrictions in that  
34 far exceed whatever the Planning Board has ever even come up with in the 20-  
35 year history of the Annual Growth Policy is in fact a tool in the arsenal to manage  
36 growth. We are also, as the saying goes, entitled to our own opinion but not our  
37 own set of facts. And the fact that I think is the most important about the  
38 discussion that we're starting today and we'll continue next week is on Circle 55D  
39 which are housing approvals. This is information that was pulled together from --  
40 from Karl's shop which basically shows the following. The growth rate, the  
41 percentage increase from the previous year of number of units on an annual  
42 basis was in fact in the late '80s 2.79%. And based on the policy we currently  
43 have in place, the growth rate has essentially been cut in half, almost half,

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1 1.45%. In real units, it's number of units were a little under 7,000 that were  
2 approved in 1989. Now it's a little under 4,500. So that is sort of the 20-year  
3 comparison. But for those keeping score at home the difference between the  
4 policy that we had in place two years ago and the policy we now have in place is  
5 in the box at the bottom of Circle 55D. If we had in place the Annual Growth  
6 Policy with Policy Area Review, there would have been 3,550 home that's would  
7 have been approved. Instead, there were 4,388. So this debate, even for those  
8 that want to reinstate Policy Area Review, is a debate between a growth policy  
9 for housing in this County of 1.45% versus 1.17%. To say that this is a debate  
10 that is at the margins, disrespects the concept of the margins. What we really  
11 should be talking about is this. Which is the Montgomery County's ten-year  
12 transportation plan which includes dozens and dozens of projects, including  
13 many, many state projects that haven't been funded and if we want to talk about  
14 truth in advertising, we ought to be talking to the public and the public ought to be  
15 talking to us, in my opinion, about how to end gridlock not by focusing on whether  
16 we have a change of 3/10ths of a percent in our growth policy management, but  
17 rather we actually start implementing at full speed ahead the ten-year  
18 transportation plan that we all unanimously adopted. So I'm sure we will get into  
19 extensive politicking and table pounding about what we're going to get into in the  
20 next 25 pages or so, but I wanted to at least put into context that the concerns  
21 and fears that people had two years ago, that if we removed Policy Area Review  
22 that somehow or another tens of thousands or at least thousands and thousands  
23 more homes would go build in Montgomery County just has not happened. It's  
24 838 homes off of a base of 300,000 plus homes in Montgomery County. 302,000,  
25 which doesn't factor in whatever is going on where we have no control over in  
26 Gaithersburg and Rockville. The other point I would make is that even though we  
27 start off the discussion with the preliminary plan approval rate that the Planning  
28 Board wants us to adopt and a variety of other pieces, what the Committee came  
29 out with as an overall concept was to keep in place what we currently have with  
30 some modest tightening of local area review in terms of critical lane volumes.  
31 That's not until much later on in the package. So with that as general  
32 background, I guess I'll see whether the Chair of the Planning Board wants to  
33 make any comments to begin with.

34  
35 Derick Berlage,

36 Thank you, Mr. Silverman. The first thing I'd like to say is the work that the PHED  
37 Committee did on this is excellent. As everyone can see from the packet these  
38 are very complicated issues and we put a lot of time and effort into a number of  
39 refinements. And we agree with most of what the PHED Committee  
40 recommended. We do not however agree with the very first issue that's on the  
41 packet's agenda which is the question should some form of Policy Area  
42 Transportation Review being reintroduced. We acknowledged, as everyone did,  
43 that the previous form of Policy Area Review was seriously flawed. But our belief



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1 was that it needed to be reformed, not discarded. And one of the useful things  
2 that came out of work the PHED Committee did, we also are very pleased that  
3 the PHED Committee looked seriously at these issues. But what that look-see  
4 establishes is that whether you compare the Council adopted AGP against the  
5 old AGP or you compare it against what the Planning Board proposed, or you  
6 compare it against what the Planning Staff proposed. In this case the Council  
7 approved AGP produces more approvals than would have happened under any  
8 of those other alternatives. And in a County where we still believe that growth  
9 and development is a good deal ahead of public infrastructure, and public  
10 infrastructure needs an opportunity to catch up, those additional approvals do  
11 concern us. And what's concerns us as much as the absolute number of the  
12 additional approvals, which has, as the Chairman says is, at least in this year, the  
13 difference "is what it is," although it can accumulate over time, but it's also an  
14 issue of where those approvals happen. And the chart on Circle 12 which was  
15 the chart that was most compelling to the Planning Board's consideration of  
16 these issues shows that the additional approvals have happened in many cases  
17 in the places where we can least afford to have them. The area that's are not  
18 Smart Growth Areas, particularly the suburban areas where the number of  
19 residential approvals was 306% of what it would have been under the Planning  
20 Board's planning approach. The number of jobs approvals was 700% above what  
21 it would have been under the Planning Board's approach. Again, these are not  
22 Smart Growth locations where we want to see continued rapid development  
23 without the infrastructure being put in place first. That being said we understand  
24 that there's a relatively short period of time that has gone by since the Council  
25 adopted its new AGP. We're practical and realistic and we acknowledge that it's  
26 probably not enough time to reverse field, but we do not think this issue is going  
27 to go away. We look forward to working with you and your staff and the  
28 community because we do think that some form of Policy Area Review does  
29 need to come back at some point in the future. Thank you.

30  
31 Councilmember Silverman,  
32 Okay, I know there's -- my colleagues have lights to begin with, but I just want to  
33 find out where this is. Glenn, where are the numbers that Chairman Berlage was  
34 talking about in the packet?

35  
36 Glenn Orlin,  
37 Circle 12. He was comparing the...

38  
39 Councilmember Silverman,  
40 Oh, yeah right. Here it is.

41  
42 Glenn Orlin,  
43 ...the results of the what the Planning Board had recommended two years ago.



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1  
2 Councilmember Silverman,  
3 Right, which was -- okay. But Derick, again, I really.

4  
5 Derick Berlage,  
6 Nobody supported that except the Planning Board. We still stand by it.

7  
8 Councilmember Silverman,  
9 I mean, nobody did, but I just want to again understand and so we're talking  
10 about facts as opposed to perception.

11  
12 Derick Berlage,  
13 Absolutely.

14  
15 Councilmember Silverman,  
16 On Circle 12 your numbers basically would have produced 3,625 in terms of  
17 housing units. That's the bottom line total on Circle 12. That's actually more than  
18 if we had kept Policy Area Review in place. The fundamental difference between  
19 your proposal and what we had in place two years ago really is the location of the  
20 housing. You basically don't want to -- I mean your policy if adopted essentially  
21 would have if I understood our analysis that we had in the PHED Committee in  
22 our discussion was effectively it would have allowed virtually all of the  
23 development to occur inside the Beltway.

24  
25 Derick Berlage,  
26 In the Metro Station Policy Areas and in the Red Line Policy Areas.

27  
28 Councilmember Silverman,  
29 Right, right.

30  
31 Derick Berlage,  
32 Some of which are outside, but essentially that's correct.

33  
34 Councilmember Silverman,  
35 Okay, and again in terms of the numbers here that are on Circle 12, I mean, the  
36 biggest differential here, which actually are what you would like to do versus what  
37 was approved is in these suburban areas. But where is it, Glenn, in terms of the  
38 838 homes and where they are is on page 2? I mean, that's the differential.  
39 You've got about -- it's in the new text under new rules versus old rules. You got  
40 414 units more in Clarksburg, 212 in Fairland/White Oak, 157 in Germantown  
41 West, and then 32 in Montgomery Village Air Park, 12 in Olney, and 11 in Aspen  
42 Hill in terms of area that's would have been in moratorium. I'm still trying to  
43 understand whether the goal of the Planning Board in its [P-PAR] proposal is



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1 really to ratchet down the overall numbers or are you really just trying to basically  
2 say that for the foreseeable future the only place you want to see any  
3 development to occur in terms of housing in this County is inside the Beltway or  
4 around Metro Stations? Because your aggregate numbers are really not any  
5 different than the Policy Area Review numbers we had in place two years ago.

6  
7 Derick Berlage,

8 Well, it's certainly not to prevent any additional development outside the Beltway  
9 because, as Circle 12 shows, there was an allocation for every part of the County  
10 but it was relatively smaller for the outlying parts of the County. The Planning  
11 Board's goal was two-fold. It was to reduce the rate of development, to meter  
12 development, if you will over time. Have it occur more slowly than it would in the  
13 absence of an AGP. And secondly, to the extent it was metered, the valve, if you  
14 will, would be a bit larger for those Smart Growth locations near Metro and  
15 existing infrastructure. And the Board's view is that, you know, the good news is  
16 Montgomery County is an enormously successful community, a popular place to  
17 build residential, a popular place to build commercial. We have the luxury,  
18 unlike many communities in this country, of setting the rate of growth ourselves  
19 and knowing that whatever we set it at we will receive growth that will allow us to  
20 continue to have a dynamic economy. But we ought not to rush in -- we ought not  
21 to accept growth any faster, and particularly not in locations where we don't have  
22 the structure to handle it, because that growth will happen in the future. It's not an  
23 attempt to undercut the Master Plan in any way, it's not an attempt to undercut  
24 the ultimate build-out policies of the Council, but it's a feeling we can afford to go  
25 slower and do it right from an infrastructure standpoint.

26  
27 Councilmember Silverman,

28 But the implication, though, of saying -- when you talk about the structure, the  
29 infrastructure because you happen to be supporting housing around Metro  
30 Station Policy Areas? I mean the assumption there is people are using Metro,  
31 we've got the infrastructure, therefore it's okay to load it up with housing? I mean  
32 I'm looking at a transportation plan that doesn't have the Inner Purple Line on it?  
33 How is that helpful when I'm supposed to tell folks in Silver Spring or Bethesda,  
34 guess what? Good news, there's no housing in Clarksburg.

35  
36 Derick Berlage,

37 The presence of the transit infrastructure makes that -- it's not that we have great  
38 transportation infrastructure in any of these areas, but the presence of good  
39 transit infrastructure in the Smart Growth locations means when the development  
40 happens there people and businesses have a choice not to be completely  
41 dependant upon the automobile for all of their trips. In an environment where --  
42 number one, you don't want to stop growth. You can't, even if you wanted to. You  
43 don't want to because a dynamic economy needs growth. So that's a given.





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1 However in an environment where there's not enough infrastructure anywhere to  
2 easily accommodate new growth, we think that it makes sense to make a very  
3 conscience decision about where that growth happens and the rate at which it  
4 happens. And whether it was what we proposed or a different geographic outline  
5 allocation that the Council might impose, we think it makes sense to have that  
6 kind of metering place.

7  
8 Councilmember Silverman,

9 All right, let me ask you about Circle 12 which we really didn't talk about in the  
10 PHED Committee at all but anticipating there may be some questions. Your  
11 proposal for on the job side can only be described as a radical proposal. I mean,  
12 these numbers on jobs in terms of approvals not only would -- would ratchet  
13 down the overall numbers, but even in Metro Station Policy Areas you're talking  
14 about cutting back significantly the number of potential approved jobs. Now, I  
15 recognize the fact, as you do, that the job approvals that are listed here bear  
16 absolutely no relationship whatsoever to the actual jobs that are being created on  
17 an annual basis. I mean, the projections for FY05 in terms of job growth in the  
18 County are 1.7%. That's what our Finance Department tells us. That's about  
19 8,000 jobs. That's actually a high-water mark in the last five years. It's been  
20 below 1%. So what's the policy issue here in which since we had a policy two  
21 years ago that according to your number crunchers even with the policy change  
22 that we made, you know, getting rid of Policy Area Review or keeping Policy  
23 Area Review, the same aggregate number of jobs would have been created  
24 anyway. Something like 14,000 and some change. But your proposal. the  
25 Planning Board suggested proposal, would cut that back to 5,800. What's the  
26 policy reason for that?

27  
28 Derick Berlage,

29 We call it jobs because that's how we have always measured it, but what we're  
30 talking about in the context of an Annual Growth Policy is commercial or retail  
31 square footage. These numbers represent real buildings that will be built in the  
32 community and that will require the services of public infrastructure. And so if you  
33 want to call it a radical proposal you can call it a radical proposal. We think the  
34 disconnect between infrastructure and development is already radical and there's  
35 a need for a significant midcourse correction and that was the Genesis of the  
36 Planning Board's original approval. Again, the County needs to grow but it  
37 doesn't need to grow at the rate that it has historically been growing. It can grow  
38 more slowly and still have a very healthy economy. And, yes, maybe that means  
39 if there's strong desire to add jobs in the economy that people will be working in  
40 smaller spaces or maybe it will mean that older buildings will get, you know,  
41 reconfigured faster to accommodate some of those jobs and that's not  
42 necessarily a bad thing. But it says jobs. What it means is buildings on the  
43 ground and that's a challenge.



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1 Councilmember Silverman,

2 But we work -- well, it's buildings on the grounds but because it's commercial  
3 space which you translate into jobs. And I'm looking at a jobs figure here that if  
4 we adopted your policy at 5,800 jobs you would basically be saying to the county  
5 that 1.7% job growth, 8,000 jobs in this County, is too much. That, in fact, we  
6 ought to be scaling back to these kind of numbers. So my follow-up question is  
7 you got any economists on staff? When you make -- well, do you have any  
8 economic analysis about what the impact on the County economy would be of  
9 your proposal? Because we didn't see that in PHED Committee.

11 Derick Berlage,

12 Well, when we made the original proposal we had lengthy discussions about  
13 should it be 1%, should it be 1 1/2%, should it be 2%? And we certainly, the  
14 Planning Board talked a great deal about how it did not want to do anything that  
15 would throw a monkey wrench into a successful economy. That's the last thing  
16 that we need. The economic advice that we had suggested that a 1% growth rate  
17 is a growth rate that is healthy without being overheated. And maybe -- I don't  
18 know if you can -- you want to elaborate on that, Karl, I know two years ago...

21 Karl Moritz,

22 Sure.

24 Derick Berlage,

25 ...you and some of your staff made that presentation, and you may not be ready  
26 to reprise it, but...

28 Councilmember Silverman,

29 You can talk about it next time, if you want. Okay, I mean that's okay, Karl, we  
30 can talk about it next time.

32 Karl Moritz,

33 Karl Moritz, for the record...Oh, sure, I'd be glad then -- Karl Moritz for the record.  
34 I'll be glad to bring some of that material back for you, sure.

36 Councilmember Silverman,

37 Okay, it's just -- besides debating at the margins here, what struck me as really  
38 problematic is we're -- we are coming out of a recession, we are trying to  
39 broaden the tax base. We are trying to pay for programs and services without  
40 putting undue burdens on existing property taxpayers. One of the ways you do  
41 that is through job growth so that the income tax revenues come in. And we have  
42 a Planning Board that's basically saying 1.7% is too fast. I'm trying to figure out  
43 how that jives with the position that you all take when you come knocking on our



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1 door in the Spring for \$70-plus million a year. We have to account for our budget  
2 every Spring. And I'm -- I'm continually amazed at what I consider to be a  
3 complete disconnect in terms of the revenues that the County needs in terms of  
4 the tax base that we need and a proposal that you want to end up cutting jobs  
5 while we're trying to move forward with them. I would just -- before I turn this over  
6 to a zillion lights that are on here -- I would say one of the challenges with this  
7 discussion is we talk about approvals as opposed to actual realities. And that's  
8 why there's one other interesting chart which is on 55B, which are the actual  
9 housing completions. Now, these include Gaithersburg and Rockville. But I think,  
10 again, because they aren't prepared in a way to extract out Gaithersburg and  
11 Rockville, but the actual completions of houses in this County have been on a  
12 steady decline since the mid-'80s when they were at a very high peak of 10,000  
13 housing units and you had in effect a growth rate of over 4%. We are now at a  
14 place where the number of housing units from the previous year, 2004 is the last  
15 number that we have, in terms of what's actually getting built out there not what  
16 approvals might be. In other words what the market is basically doing is we're  
17 down to 1.20% increase from 2003 to 2004. No incredible surprise that we've  
18 seen some challenges with housing prices in this County. Thank you.

19  
20 Council President Perez,  
21 Mr. Andrews.

22  
23 Councilmember Andrews,  
24 Thank you. Well, there seems to be some confusion that you have to have job  
25 growth or population growth to have economic growth. You don't. There are lots  
26 of countries that's have stable populations that have economic growth. And so  
27 you don't have to have those and it's a false suggestion to suggest that if you  
28 don't have population growth or don't have job growth you won't have economic  
29 growth. And you can have lots of turnover' lots of turnover in people, lot's of  
30 turnover in jobs. The County's concept is for build-out. That is completely  
31 consistent with economic growth. If it's not, then we've been basing a plan for 40  
32 years on something that people didn't understand. But it's consistent. Do you it  
33 by increasing productivity. You do it by increasing incomes. You don't have to  
34 have population growth or job growth to have an increase in the gross domestic  
35 product. I think it's important to state that out front. To me, the issue in this  
36 Annual Growth Policy is whether we're going to continue a policy that will allow  
37 Rockville Pike to become a parking lot, because this policy allows for  
38 unmitigated, unlimited congestion at Rockville -- at Metro Stations. Because  
39 there's no upper limit on how congested the local intersections can get in the  
40 Metro areas. 50% mitigation for each project means that 50% don't have to be  
41 mitigated and there's no upper limit on the cumulative effect. So we could get it to  
42 a point literally where people cannot move and that would be allowable under the  
43 Annual Growth Policy, based on the fact that there's no cumulative level at which



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1 point we say no. Now, there was a proposal from the Planning Board and from  
2 staff to have an upper limit on how much additional congestion would be allowed  
3 at local intersections and Metro Stations. And the proposal was for a local area  
4 traffic standard that could be up to 200 more than -- up to 200 in the critical lane  
5 volume. That would be the upper limit that would be allowed. That was voted  
6 down by the Committee 2-1. I do propose to propose that as an amendment at  
7 the appropriate time. Definitely not right now, but at the appropriate time. Looking  
8 around. Definitely not right now. [LAUGHTER] It might get a second but I can  
9 count. You know, I took basic math.

10  
11 Council President Perez,  
12 You were a math major, I think.

13  
14 Councilmember Andrews,  
15 No, no, I really stopped -- basic math. I'm good at basic math. Up to 9, up to 5,  
16 that kind of stuff.

17  
18 Council President Perez,  
19 That's all you need for this job.

20  
21 Councilmember Andrews,  
22 That's right, that's right. So to me that's a big issue. Because according to the  
23 packet what the Board recognizes, what the Board's position is -- and I disagree  
24 with the Board on this -- the Board has acknowledged, though, that not limiting  
25 unmitigated trips recognizing that this may be the price of the larger goal of  
26 maximizing the opportunities afforded by transit-oriented development. I just don't  
27 agree that we should maximize transit-oriented development. I think the standard  
28 there should be what's reasonable. And I do think you can have more  
29 development at transit stations and other places, but there's an upper limit that's  
30 reasonable. And we should not put the goal of having more development at  
31 transit station ahead of the goal of preventing traffic from getting worse. I've  
32 knocked on thousands and thousands of doors over the last seven years. I've  
33 knocked on thousands of doors during this term and I have almost never come  
34 across a person who says, "You know what, this County isn't growing fast  
35 enough, you've got to do more." I just don't hear it. What I hear are complaints  
36 about traffic and you're growing too fast, and yet this policy would allow us to not  
37 curb -- if this policy is adopted as proposed and recommended by the PHED  
38 Committee there is no limit on the amount of congestion that we can reach at the  
39 Metro Station areas and I simply won't support that. So that's how I'm going to  
40 define this issue. I think it's a test of whether we continue to put, quote, "the need  
41 for development" in front of the need to prevent traffic from getting significantly  
42 worse, or whether we take action to put an upper limit on how much congestion  
43 we will have along Rockville Pike primarily, which is where most of the Metro



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1 Station development is occurring. So I'll be bringing those issues back at the  
2 appropriate time. But I did want to say, I just couldn't let it go, if the concept of  
3 build-out has any meaning and if we look at the experience of other countries  
4 and other places you can have economic growth with a stable population and  
5 without an increase in jobs as long as you're having productivity improvements.  
6 and we talk a lot about productivity up here and I think it's just important to make  
7 that distinction because there's certainly an upper limit on how many people the  
8 County can accommodate. And that figure has been variously proposed at  
9 somewhere around 1.1, 1.2 million over the years. Who knows what the exact  
10 number is, but certainly, I mean, everyone could agree there's an upper limit. And  
11 at some point we reach it, and what do we do then? Well, certainly, if you don't  
12 think that you can have economic vitality with a stable population that's a problem  
13 for you. But a lot of places have already done it. If we grow to a point where we  
14 exceed the ability to sustain it then we will have undercut the quality of life in  
15 Montgomery County.

16  
17 Council President Perez,  
18 Mr. Knapp.

19  
20 Councilmember Knapp,  
21 Thank you, Mr. President. So many issues, so little time.

22  
23 Councilmember Silverman,  
24 Today.

25  
26 Councilmember Knapp,  
27 I know.

28  
29 Unidentified  
30 [INAUDIBLE] Filibuster this.

31  
32 Councilmember Knapp,  
33 Yeah, that's right, ready, go. No, I appreciate...

34  
35 Council President Perez,  
36 You guys can leave.

37  
38 Multiple Speakers  
39 [INAUDIBLE]

40  
41 Councilmember Knapp,  
42 I appreciate my -- Mr. Andrews' comments and would actually I'd like to get some  
43 of that data if you've got some. I would be very impressed.



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1  
2 Councilmember Andrews,  
3 I would like to ask the Planning Board to pull data from around the world.  
4 Multiple Speakers  
5 Yeah.

6  
7 Councilmember Andrews,  
8 Examples of stable state... How about the United States? Sure, growing -- stable  
9 state populations with growing economies.

10  
11 Councilmember Knapp,  
12 And the notion of build-out is one I continue to find troubling because I think it  
13 builds a perception of people that somehow you get to a point and you're done.  
14 And I'm struck -- I was having a conversation with Chris Zimmerman, who's on  
15 the Arlington County Board, I don't know six, nine months ago, and someone  
16 had made a reference to it during one of our public sessions down there, and he  
17 said, "You know, Arlington was a build-out in 1956." And there's now \$2.2 billion  
18 worth of new construction projects going on in Arlington. So it's just one of those  
19 thing that's we keep saying build-out as though sometime you get to a point  
20 where you're done and it builds this perception I this is inaccurate for people. I  
21 guess as I look through the packet and I -- to be fair I haven't done as much of  
22 the homework on this as I should have given some of the other issues we've  
23 been dealing with. I guess the thing that struck me at the outset was the fact that  
24 something the Council voted to get rid of two years ago is somehow the lead  
25 question of what we're addressing. It blew me away. I thought it was our job to  
26 establish the policy, and if we had questions, that was ours to raise, but it's back  
27 in front of us nevertheless. The question is as we look at the growth that the  
28 region is going to experience over the next 15 to 20 years, I know that all the  
29 planning directors have been consulted on this. We're looking at somewhere  
30 between 1 1/2 to 2 million people -- what is -- I asked this earlier, what is  
31 Montgomery's County's -- what to do people expect we'll absorb of that 1 1/2, 2  
32 million people?

33  
34 Derick Berlage,  
35 Well, in the next 25 years we're expected to absorb 200,000 plus. That would be  
36 a 20% increase over our existing base of almost a million. Karl will have to help  
37 me with the number beyond 25 years.

38  
39 Karl Moritz,  
40 You mean the 50-year horizon? Is that what you're...

41  
42 Councilmember Knapp,  
43 No, I think that the COG horizon is 20.



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1  
2 Karl Moritz,  
3 No, the latest forecast is out 25 years.

4  
5 Councilmember Knapp,  
6 Is it 25, okay?

7  
8 Karl Moritz,

9  
10 So, you're right. That's what we know.

11  
12 Councilmember Knapp,  
13 Is that at 1 percent growth rate?

14  
15 Derick Berlage,  
16 200,000 jobs over 25 years...that is more than basic math. I meant people,  
17 population.

18  
19 Councilmember Andrews,  
20 Less than -- we have a little under a million right now.

21  
22 Karl Moritz,  
23 The 200,000 is -- I'm sorry. I should have it memorized. But it's right here.

24  
25 Councilmember Knapp,  
26 That's all right, we can get back to that one.

27  
28 Derick Berlage,  
29 I mean it's -- let me -- that is the forecast, that is the COG forecast. The COG  
30 forecast obviously is not in any way connected to our Annual Growth Policy. One  
31 could say, "Well, if that's the forecast, fine, we'll accept that many people" and  
32 then we wouldn't have to worry about the AGP at all. We'd just let them come.  
33 The point of the AGP is we want to have some control. It may be more than 200,  
34 it may be less than 200, and where it goes is important. And what the AGP is all  
35 about is as that growth goes forward, as you know it will, do you want to control  
36 the rate and the location and try to have infrastructure in place.

37  
38 Councilmember Knapp,  
39 Right.

40  
41 Derick Berlage,  
42 I don't know that...



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1 Councilmember Knapp,

2 Well, no -- right.

3

4 Derick Berlage,

5 Well, whether it's 1% or 2% is really...

6

7 Councilmember Knapp,

8 I guess the point I'm getting to is with that increase in demand you have to have  
9 some measure of increase in supply. Because the other issue, at least in the  
10 three years I've been here at this Council, has been addressing and that -- and  
11 you're a strong proponent of too, is one of affordable housing. We can try and do  
12 as many different programs as we want to but if there's no measure of increase  
13 in the supply you're still not going to get any increase in affordability. I guess one  
14 of those simple things to look at is what has our affordability done over the  
15 course of the last ten years as we've seen a slower growth rate in the County. I  
16 mean I...

17

18 Derick Berlage,

19 We see that affordability has gone down dramatically for a variety of reasons.

20

21 Councilmember Knapp,

22 And so if we continue to advocate for a slower growth rate then that affordability  
23 only continues to get worse.

24

25 Multiple Speakers

26 Yes.

27

28 Councilmember Knapp,

29 Okay, just checking.

30

31 Unidentified

32 I couldn't hear that, Mr. Chairman.

33

34 Derick Berlage,

35 I said it won't help.

36

37 Councilmember Knapp,

38 I would actually argue that it would probably continue to hurt.

39

40 Derick Berlage,

41 Affordability is important, it's not the only issue our citizens care about.

42

43 Councilmember Knapp,





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1 No, that's true, that's true.

2  
3 Derick Berlage,

4 They care about traffic, they care about schools, they care about...

5  
6 Councilmember Knapp,

7 In previous years, as -- and this is another thing that has kind of struck me -- is  
8 this notion that we're actually going to control growth. As I recall there have been  
9 a lot of countries that's have tried to do that, and as someone -- I was standing  
10 around during Trick or Treating last night and some folks, as I raised  
11 [INAUDIBLE], I told them we were going to talk about today, I told them what  
12 we're going to discuss and they suggested if we accomplished a good way to do  
13 it that China would be really interested in making sure they could implement the  
14 same thing we did. But I think the question I had is...

15  
16 Council President Perez,

17 I need to stop you there, Mr. Knapp. What the hell you doing talking about the  
18 growth policy on Halloween night with your neighbors? 'Cause I was ...

19  
20 Councilmember Knapp,

21 I was actually, I was...

22  
23 Council President Perez,

24 You're gonna have -- I apologize.

25  
26 Councilmember Subin,

27 What did batman say? What was Superman's view of our AGP?

28  
29 Councilmember Knapp,

30 No, actually the reason we got there is we were standing around an outdoor fire  
31 drinking a beer, eating candy.

32  
33 Councilmember Subin,

34 Now you're getting better.

35  
36 Councilmember Knapp,

37 So we were talking about how much fun the next day was going to be.

38  
39 Council President Perez,

40 I'm sorry, I didn't mean to upset your train of thought, but I...

41  
42 Councilmember Knapp,



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1 No, no, understood. But we digress at this time of day. I guess the question I  
2 have is how effective have we been at actually implementing the growth rate that  
3 we've identified on a regular basis? Over the last -- pick a number of years. 10  
4 years? 15 years? 5 years?

5  
6 Councilmember Subin,  
7 Do we have a growth rate?

8  
9 Karl Moritz,  
10 The County's never really expressly identified a growth rate that it was targeting  
11 and...

12  
13 Derick Berlage,  
14 Until you recently approved your economic development -- Strategic Economic  
15 Development Plan. That was really the first time you ever had a numeric growth  
16 target.

17  
18 Councilmember Subin,  
19 Just on jobs.

20  
21 Karl Moritz,  
22 And that's just on jobs.

23  
24 Councilmember Knapp,  
25 We've never had the discussion about rate of growth until the last couple of  
26 years?

27  
28 Councilmember Silverman,  
29 A specific target in a piece of paper as to what we were shooting for for job  
30 growth in the County is not a discussion that -- I mean it's probably 20 years old.

31  
32 Councilmember Knapp,  
33 Well, I guess I would respectfully submit lots of other folks have tried a  
34 percentage growth rate and have not been particularly successful and I'm not  
35 sure why we're actually having that debate. The other question I would ask, if  
36 we're actually going to talk about Policy Area Review or some modification  
37 thereof, is how many areas -- how many planning areas before were in  
38 moratorium, how long had they been in moratorium, and how much progress had  
39 been made at actually increasing the level of infrastructure in those areas? I'd  
40 like to get some understanding of that because the debate -- at least the quote  
41 that gets raised a lot is we need to slow down and let the infrastructure catch up  
42 and at least, as I recall, in the last AGP discussion I wasn't necessarily thrilled the  
43 outcome because I didn't think we had great alternatives in front of us, but



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1 nevertheless it seems to me that there has not been an example of actually the  
2 infrastructure ever catching up. So from a planning perspective we've had plans,  
3 previous Councils chose to not necessarily build the infrastructure. We didn't  
4 build the roads. And so we put ourselves in a hole. Then put areas in  
5 moratorium. We didn't have resources to catch up. There was no incentive in  
6 those areas that were in moratorium because there was no other activity  
7 occurring, and as a result we just put places into moratorium for indefinite periods  
8 of time with no clear way to actually get them out. Have I missed anything.

9  
10 Glenn Orlin,

11 No, there were areas that came out of moratorium because of adding facilities,  
12 and some that went in for a while then after a while, and then after a while came  
13 back out again. There's some that were in moratorium seemingly forever  
14 because the depth of the moratorium was so deep. But there were several others  
15 that went in and out. There was a chart -- we'll pull it together for you -- it's  
16 actually in the last growth policy and previous ones, which showed historically  
17 what happened in each policy area, whether it was in or out and by how much.  
18 So we can get for you pretty easily.

19  
20 Councilmember Knapp,

21 Okay, okay, that would be helpful.

22  
23 Derick Berlage,

24 And nobody thought that was a good idea.

25  
26 Councilmember Knapp,

27 Right. No. I know.

28  
29 Derick Berlage,

30 Moratoriums would be sort of rolling moratoriums.

31  
32 Councilmember Knapp,

33 Okay, well those are just kind of some of the pieces of things at least I think we  
34 need to talk more about. But I guess we'll talk about this more. Thanks.

35  
36 Councilmember Silverman,

37 Mrs. Floreen.

38  
39 Councilmember Floreen,

40 When I set my clock back an hour on Saturday night, Sunday morning I didn't  
41 realize I set it back two years to have this same conversation all over again with  
42 respect to the growth policy. I just want to make a couple comments. I think we're  
43 making some progress. Because we're introducing some actual facts in terms of



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1 housing completions and actual jobs. We're not there quite yet but I hope that the  
2 Planning Board and its staff, and we talked about this the other day, that we will  
3 start also tracking as we are with some of the construction issues and the  
4 congested intersection locations some of the actual verifiable housing unit  
5 completion rate issues as well as some of the actual jobs, as opposed to the  
6 estimate which of course is standard in what we've always been working with.  
7 But it's just an estimate. Because I think the in facts in the conversation is  
8 remarkably useful as we engage in some of the political debate in one  
9 environment or another. I wanted to make the point, though, that the only -- the  
10 Planning Board didn't recommend any significant changes this time around. It's  
11 only been through the really Mr. Orlin and PHED Committee that we've examined  
12 choices here and some alternative approaches. The Committee doesn't  
13 recommend them all but the fact remains the Planning Board didn't initiate that.  
14 And in fact we've had to add spend some significant time on looking at a staging  
15 program for Shady Grove and the other day discussing what we're going to do  
16 with the Woodmont Triangle and how that fits into things here at the PHED  
17 Committee. And we really do need your help on these issues. I think that kind of  
18 work needs -- to make it easier certainly for our staff if we got a fuller fleshed out  
19 approach to some of these issues in those Master Plans. To help us work  
20 through these issues. Everyone went -- I think most of us went to the reality  
21 check that ULI sponsored down at the Reagan Center, I guess it was this Spring.  
22 And everyone said "Oh, yeah, we have to concentrate growth at Metro Stations."  
23 Everybody lined up their blocks and walked out holding hands. But the minute  
24 that we actually have to do something about it, we find ways to discourage doing  
25 what we really all know we're going to have to do, given the demands on the  
26 region. So the conversation, the debate about these issues is always interesting.  
27 But we all know that we have challenges, not unlike, was it Arlington that's all  
28 built-out years ago, they're continuing to redevelop, and we're going to continue  
29 to see that here. So I do think the reality check for us is what's real and on the  
30 ground today, what's actually going to go forward as opposed to things in the  
31 pipeline. And I think the most thing is, Mr. Silverman said at the outset, is what  
32 are we doing to get us to move forward on the transportation front, the  
33 infrastructure needs? I think we're making some progress with the Mobility  
34 Report. I'm glad you changed the name. And now we have to get that into --  
35 solutions into action and funding, both at the County level, at the State level, as  
36 we just approved or transportation program today for our folks in Annapolis. But  
37 we really need the Planning Board's help in terms of working through the  
38 intersection solutions, real world solutions to real world problems, and educating  
39 the community and our legislators, frankly, about the fact that we have problems  
40 situations we need to try to fix. I had recently told some legislators that an  
41 intersection project the state has underway is one designed to address  
42 something in our top 25 list, top 30 list. They didn't know that. And I think we  
43 need to figure out a way to explain to the public how we're prioritizing



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1 transportation solutions and that we are really making an effort to address them.  
2 As you approve subdivisions and other projects, the Planning Board should be  
3 looking at that as well. And in fact, it is under the rules. In fact, that's what we  
4 approved the last time to focus on real world solutions. But and I hope -- I  
5 understand you're doing that and I think that's a good thing. The in fact of the  
6 matter is that we're making some progress on this but I think our progress needs  
7 to be measured, not just in terms of goals and objectives but also in terms of  
8 what we're doing on the ground today to solve these real problems. So I enjoy  
9 the debate. I look forward to our next couple work of work sessions, whenever  
10 we're going to get to them. But I do think we need to move forward and deal with  
11 what we can deal with now. A percentage rate that was advocated by the Board  
12 several years ago, that was defined only by vague and politically inspired -- or  
13 could be inspired by political initiatives was no more of a solution than a Policy  
14 Area Review standard that absolutely everyone agreed made no sense. It was  
15 incomprehensible. So they have it. Let's focus on what we can focus on, and on  
16 real solutions and moving us forward these debates instead of taking us back two  
17 years. Thanks.

18  
19 Council President Perez,  
20 Mr. Subin.

21  
22 Councilmember Subin,  
23 Long ago in some far distant era we used to spend a lot of money to educate our  
24 children for two reasons. One was the fundamental principle that we wanted our  
25 children to be well-educated. The other was so that they could find skilled  
26 professional jobs here at home, and we didn't have to send them away. Or they  
27 weren't forced to go away. Now I'm starting to hear some murmurs that economic  
28 development and job development are totally unrelated, can be unrelated, but I  
29 wonder why is there so much competition to attract the high-tech firms, the  
30 skilled firms, the professional firms when they start to look about locating? Why  
31 you have all these international treaties to knock down barriers to competition so  
32 that other countries, not us, have the ability to get jobs and to grow. So you know  
33 maybe -- I say this somewhat tongue in cheek, you ought to stop spending \$1.7  
34 billion to educate our kids because clearly there's a suggestion that we should  
35 spend that money so they can go someplace else far away from here where that  
36 education will pay off. Frankly, I'm ecstatic that my kids were able to stay here.  
37 Derick, it seems to me that every poll that I've seen lately transportation concerns  
38 far outweigh growth concerns. And that people are looking at 270 and 29 and 27  
39 and 355. Has the Board looked at the impact and what has happened in the past  
40 when we've ratcheted down on growth and those folks that would have been able  
41 to find housing here found housing in Frederick and Howard and Carroll and they  
42 still came here? What that did to our transportation network?



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1 Derick Berlage,  
2 Well...

3  
4 Councilmember Subin,  
5 Has anybody looked at the correlations?

6  
7 Derick Berlage,  
8 I think in the past we have looked at the correlations and there is no question that  
9 if the housing supply is constrained and you don't do anything to encourage the  
10 creation of additional housing in Smart Growth locations what's going to happen  
11 is that an ever larger number of people will live outside the County and commute  
12 in. That's emphatically not our strategy or the Council's strategy. The Council --  
13 this Council and prior Councils in many other arenas have been leaders in saying  
14 we want the growth to occur close to Metro, especially the housing growth, so  
15 people will not have to move out of the County and that a larger percentage of  
16 people who live in the County, in Montgomery County housing will not have to  
17 use a vehicle to get to work, will not have to use a vehicle for every single one of  
18 their trips to the store. And so what you're saying is right on, but I don't think that  
19 it's precluded by what we've proposed in any way. And we understand that the  
20 Council is not revisiting -- I don't want to be misunderstood. I never suggested  
21 that the Council today was going to revisit what it did two years ago, and what's  
22 only been in place for a year and a few months. We're simply raising a flag and  
23 that's all the Planning Board intended to do. But they intended to do it very clearly  
24 raise a flag that what we replaced the old system with may not in the end be what  
25 we want to stick with.

26  
27 Councilmember Subin,  
28 Well, what attempts have been there to correlate the fact that we spend less and  
29 less on transportation projects and what that does to congestion on the major  
30 arteries coming in here? Have you looked at that?

31  
32 Derick Berlage,  
33 Certainly we have. Dan, you want to...

34  
35 Dan Hardy,  
36 I guess for the record Dan Hardy with Transportation Planning. I think part of  
37 what we did in looking at Transportation Policy Report for instance was seeing  
38 that we do need both transportation infrastructure and land use changes. We did  
39 find that there's not much that we can make [C] changes with the relatively small  
40 amount of additional development that we're forecasting over the next 25 years.  
41 But certainly what the Planning Board, I think, did was to say we can do a lot to  
42 increase accessibility by bringing jobs and housing together into the same policy  
43 areas.



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1 Councilmember Subin,

2 Well, I would agree with the look at bringing those jobs into those policy areas.  
3 But the fact remains that folk are moving out of here, and as you said, Dan, that's  
4 not been a [C] change in the terms of the amount of growth as we've gone back  
5 and forth on our policies. As Mr. Silverman said earlier, 800 houses out of a total  
6 of 300,000 is very miniscule. And in and of itself is not going to have much, if  
7 any, impact on transportation. So as we continue to spend all this time and  
8 money on the AGP and things that aren't [C] changes and don't even get to, as  
9 Mr. Silverman said, the margins of what's going on, we're not spending the time  
10 looking at what needs to be done for transportation. Transportation issues have  
11 taken a second seat in terms of what government looks at and what government  
12 does. But if you ask the people transportation is their number one issue. Now, I  
13 live far enough up 270 to know that every time there's a ratcheting down here on  
14 housing the backups in the morning go farther north on 270 and in the afternoon  
15 they start further south. And those folks aren't getting off at Montgomery Village  
16 Avenue or 28 or Falls Road or 118. They're crossing the border so they're going  
17 up 27. So I think we're looking in the wrong places and dealing with a largely  
18 paper issue, if you're talking about an increase of 800 houses. What about 800  
19 extra yards of road or 8 miles more of road to accommodate what's out there? I  
20 mean, that seems to be the real issue. Not some -- 0.0% of 1%.

21  
22  
23 Derick Berlage,

24 That's for example, why we need more housing in Shady Grove and in  
25 Woodmont Triangle and in many other places were proposing..

26  
27 Council President Perez,  
28 Mr. Andrews.

29  
30 Councilmember Andrews,

31 You're assuming a substitution effect there, that if you built here there will be less  
32 built elsewhere and I think that's very debatable. I think you'll find that it's built in  
33 both places to the same degree and you'll have more location congestion as a  
34 result of having more here. I don't buy the argument you relieve pressure  
35 elsewhere by building here because the latent demand is so high.

36  
37 Council President Perez,

38 Mr. Berlage -- Chairman Berlage, I should say. Derick, I would say if we were  
39 outside.

40  
41 Derick Berlage,

42 Any one of those is fine.



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1 Council President Perez,  
2 "You can call me" -- remember that commercial, "you can call me"...

3  
4 Derick Berlage,  
5 I've been called worse.

6  
7 Council President Perez,  
8 Yes, you have.

9  
10 Derick Berlage,  
11 And will be again.

12  
13 Council President Perez,  
14 And you will be, yes, next week. That's next week's meeting. No. If I went to a  
15 community meeting -- I just asked this question of my friend and colleague Mr.  
16 Silverman, and someone asked me in colloquial terms, not move out of the term  
17 of art, "What is your County's policy on growth?" What would your answer be?

18  
19 Derick Berlage,  
20 My answer would be that our County's policy is that, first of all that we continue to  
21 grow. And there are some who argue, no, let's just stop and not grow any longer.  
22 And I would say the County's policy is that a dynamic economy needs additional  
23 growth, a community that wants to be a welcoming community to continue to  
24 welcome people from all over the world to become part of the community needs  
25 to continue to grow. So there's going to be some level of growth. Second part of  
26 the growth policy is that we have very strong opinions about which parts of our  
27 County that growth should happen. We know we do not want it in the Agricultural  
28 Reserve. We know we want not a lot of growth in our suburban wedges. We  
29 know that we want to accommodate the bulk of the future growth in Smart  
30 Growth locations which traditionally we've called the Metro Stations areas and  
31 inside the Beltway, and the Planning Board is now beginning this a dialogue with  
32 the community, as you know, to somewhat broaden -- we think that definition of  
33 Smart Growth needs to be broadened to include what we call the centers and  
34 boulevards. But it's clear that that's -- that that's a very important part of the  
35 growth policy as well. If I were being asked the question, one of the things I  
36 would also say, which is not popular and is not easy to sell, is that there is no  
37 way we can build our way out of traffic congestion. Traffic congestion is going to  
38 get worse. All the road projects we're talking about, all the transit projects we're  
39 talking about, if we build every single one of them all we do is reduce the rate at  
40 which is gets worse, we don't reduce congestion. And that means increasingly  
41 people and businesses are going to want to have places in the County where  
42 they can locate and not be 100% auto dependant. So the desire to concentrate  
43 growth in Smart Growth locations is not simply out of some desire to save the





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1 environment, as important as that is, or stop sprawl, as important as that may be.  
2 It's an economic strategy that says that's the place where people will be most  
3 able to be successful, both in their lives and in the pursuit of their business plans.  
4 That's why a company like Discovery's decided to locate on top of Metro Station  
5 instead of out in a cornfield because they knew it was in their economic interest  
6 to be in a place where not everyone would be dependant on cars to get to them  
7 and do business with them. That would be my answer.

8  
9 Council President Perez,

10 Then the follow-up question would be what is the growth reality? You said the  
11 policy. Your statement in a way was aspirational. What would be the difference  
12 between the aspiration you just articulated and the reality that people observe  
13 day in and day out when they're on the Beltway, in about five minutes, or  
14 Rockville Pike or wherever? And what is the explanation for the difference  
15 between the aspiration and the reality? I'm trying to figure out what to do to  
16 bridge the differences between the aspiration and the reality. I put aside all of the  
17 other gobbledy gook about Annual Growth Policies. I'd like to find out what our  
18 aspiration is, what our reality is, and then what policy initiatives, if any, can be put  
19 in place to bridge the difference.

20  
21 Derick Berlage,

22 I think the reality is that we're a community in transition in the sense that where  
23 once upon a time the objective of a large number of our residents and our people  
24 and our businesses as well was to locate in a place where they'd have a lot of  
25 elbow room, if you're a corporation that means a lot of green grass around your  
26 signature site on I-270. If you're a resident that needs a big nice piece of land  
27 where you can be at some distance from your neighbors. But we also know there  
28 was a cost to those decisions in terms of sprawl and in terms of traffic congestion  
29 and at a certain point in time the cost of the congestion starts to outweigh the  
30 benefits of the lifestyle and business style that people sought that created the  
31 congestion. And there is -- and that realization is happening and the difference  
32 between the reality and the aspiration is exactly that. The reality is tremendous  
33 congestion the aspiration is to reorganize yourself in a way where either you can  
34 avoid that congestion, not get rid of it, it's still out there on the roads but  
35 increasingly have the option to avoid it in terms of how you organize your life and  
36 your business.

37  
38 Council President Perez,

39 Well, let me -- okay, and I know we're now at 5:03.

40  
41 Derick Berlage,

42 it's a very philosophical answer, but it was sort of a philosophical question.



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1 Council President Perez,

2 Well, I'm trying to figure out -- I think when we're debating an Annual Growth  
3 Policy we're setting up expectations that are grossly unrealistic. We're creating a  
4 perception that we actually can -- that we're going to resolve this as if we have  
5 the capacity to resolve this. And that's not an excuse for throwing your hands up  
6 and doing nothing. Don't get me wrong. That's not what I'm stating or implying.  
7 But that's just part of my overall frustration with this. And it's a frustration that  
8 feeds into people's frustration with the Council. You have this policy and yet we  
9 have gridlock. You have failed us. And that's part of the challenge we're coming  
10 up against. One area where I have a memory of this we had a session in  
11 Clarksburg and the T&E Committee, and we heard about all the development  
12 that's going on there and one thing we learned is that the builders and  
13 developers have a window of time that they're given to put in the road  
14 infrastructure to the extent that they're responsible for certain roads. And it simply  
15 strikes me that economic theory being what it is, there's a built-in incentive to  
16 build the homes first, the larger homes first, the MPDUs second, and the roads  
17 last or we can debate whether it's -- which one is second or which one is third.  
18 But what we've heard time and time again in Clarksburg was that you heard --  
19 pounding of nails 24/7 and you saw very little movement on the road  
20 infrastructure until there was a lot of understandable public advocacy. That  
21 strikes me as -- as we attempt to bridge the gap between our aspiration and our  
22 reality that seems to me to be one example of an area where we ought to be able  
23 to affect some public policy changes to say, "You know what, you cannot build  
24 the houses first and the roads last, especially when you're building a lot of  
25 houses. That seems to be me to be one example of an initiative that we can take  
26 as a Council to avoid what occurred. Because that was an avoidable situation, I  
27 would submit. That the roads were getting built last with very little coordination in  
28 terms of the DPWT constructed roads and I think that is a growth policy  
29 discussion. Because as we grow, we're going to have -- we're going to have this  
30 occur again. And so I would like to get very specific opportunities where we can  
31 actually implement change that people will notice. I'm stuck on this 1.2 and 1.6  
32 and 2.1 or 1.1. That -- I'm a little bit more tangibly oriented and that's why I want  
33 to look for ideas to perhaps solve some of the concrete problems that we've  
34 observed before us. Mr. Andrews?

35  
36 Councilmember Andrews,

37 I think it's a good point and a good example of the tangible will be the Shady  
38 Grove Sector Plan. Because there's a very tangible proposal. We have a County  
39 Service Park there. We control what happens on that. It's up to us, it's not  
40 anybody else and that's where we can say we made the difference. That's a clear  
41 example of where we make the decision about how much development there will  
42 be on that property. So that takes it out of the abstract and makes it very  
43 particular, very specific.

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1  
2 Council President Perez,  
3 Okay, 5:08, We're 8 minutes over. To be continued for probably two weeks.  
4